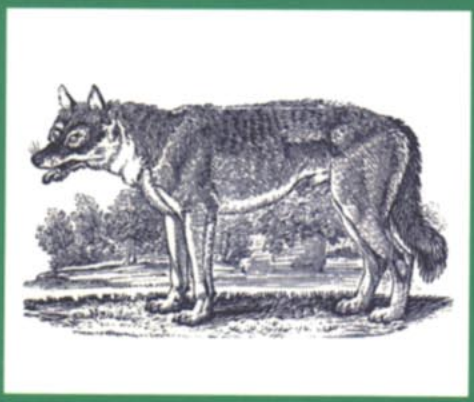
THE FREEMAN

IDEAS ON LIBERTY



A Species Worth Preserving

Why Socialism Causes Pollution

What Does Affirmative Action Affirm?

The Shoemaker of Los Baños

MARCH 1992

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

THE FREEMAN

IDEAS ON LIBERTY

1991

12 issues in one bound volume

Attractively sewn in a single volume with hard cover, the twelve issues from January through December 1991—480 pages, fully indexed for handy reference to the latest literature on freedom. More than 110 feature articles on topics including agriculture, China, civil rights, Eastern Europe, economic development, education, entrepreneurs, the environment, individual rights, government regulation, history, labor, money, private property, prices, subsidies, taxation, and trade.

Only $15.00 each

Note: Bound volumes of the digest-sized *Freeman,* 1971 through 1985, and the larger 1986 through 1990 bound volumes, are also available at $12.00 each.

FEE pays all postage on prepaid orders.

Order from:

The Foundation for Economic Education
Irvington-on-Hudson, New York 10533

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

THE FREEMAN
IDEAS ON LIBERTY

CONTENTS
MARCH
1992
VOL. 42
NO. 3

92 **The Shoemaker of Los Baños**
John Stull
How Bill Detzer made the most of a tiny corner of freedom in a Japanese prison camp.

96 **What Does Affirmative Action Affirm?**
Wendy McElroy
In search of "victims," "perpetrators," and common sense.

100 **The Gender Gap**
Cynthia D. Lee and Dwight R. Lee
Is there a growing solidarity of women voters?

104 **The Illusion That's the Welfare State**
Tibor R. Machan
Social democracy will not cure the ills of post-Soviet Eastern Europe.

107 **Why Socialism Causes Pollution**
Thomas J. DiLorenzo
Socialism, not free enterprise, poses the greater threat to the environment.

113 **Why Perestroika Failed**
Peter J. Boettke
Economic reform cannot be effected by inconsistent and incoherent half-measures.

115 **Czechoslovakia on the Hudson**
Robert Zimmerman
Some reminders of home on the sidewalks of Sazava, Brno, and Prague.

118 **Human Rights, Animal Rights, and Friends of the Earth**
Sylvester Petro
An odious and insidious clash between government and society.

120 **A Species Worth Preserving**
John Kell
Environmentalists who are willing to bear the costs of their actions.

122 **Sports: The Great American Surrogate**
Donald G. Smith
What government has taken away, the Yankees, Bears, and Lakers have put back.

124 **Book Reviews**
Doug Bandow reviews *Galileo's Revenge: Junk Science in the Courtroom* by Peter W. Huber. Jim Christie looks at Stephen L. Carter's *Reflections of an Affirmative Action Baby,* and Nicholas Elliott examines *Adam Smith and Modern Economics* by Edwin G. West.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

THE FREEMAN
IDEAS ON LIBERTY

Published by
The Foundation for Economic Education
Irvington-on-Hudson, NY 10533

President of
The Board: Bruce M. Evans
Vice-President: Robert G. Anderson
Senior Editors: Beth A. Hoffman
Brian Summers
Contributing Editors: Bettina Bien Greaves
Edmund A. Opitz
Editor Emeritus: Paul L. Poirot
Copy Editor: Deane M. Brasfield

The Freeman is the monthly publication of The Foundation for Economic Education, Inc., Irvington-on-Hudson, NY 10533. FEE, established in 1946 by Leonard E. Read, is a nonpolitical educational champion of private property, the free market, and limited government. FEE is classified as a 26 USC 501 (c) (3) tax-exempt organization. Other officers of FEE's Board of Trustees are: Gregg C. MacDonald, chairman; Lovett C. Peters, vice-chairman; Don L. Foote, treasurer.

The costs of Foundation projects and services are met through donations. Donations are invited in any amount. Subscriptions to *The Freeman* are available to any interested person in the United States for the asking. Additional single copies $1.00; 10 or more, 50 cents each. For foreign delivery, a donation of $20.00 a year is required to cover direct mailing costs.

Copyright © 1992 by The Foundation for Economic Education, Inc. Printed in the U.S.A. Permission is granted to reprint any article in this issue except "The Illusion That's the Welfare State" and "Czechoslovakia on the Hudson," provided appropriate credit is given and two copies of the reprinted material are sent to The Foundation.

Bound volumes of *The Freeman* are available from The Foundation for calendar years 1971 to date. Earlier volumes as well as current issues are available on microfilm from University Microfilms, 300 North Zeeb Road, Ann Arbor, MI 48106.

The Freeman considers unsolicited editorial submissions, but they must be accompanied by a stamped, self-addressed envelope. Our author's guide is available on request.

Phone: (914) 591-7230
FAX: (914) 591-8910

Cover art: © Dover Books

PERSPECTIVE

On Innovation

Innovation—changing resource use to reflect new knowledge, new opportunities, or new problems—can substantially increase the sustainable output from a given resource. But change always brings painful transition, and if those orchestrating the change cannot personally benefit (for example, by growing richer), then they will be less willing to fight through the changes or indeed to take the initial risk.

Typically, an entrepreneur has only to convince a few investors that his or her innovation has promise. By contrast, in democratic politics, the change is financed by taxpayers so the majority of all relevant decision-makers in the political system must be brought along. But those decision-makers, unlike investors, personally have little to gain by taking a chance on an innovation until it has a proven track record or broad backing by voters.

Innovation, by its nature, is risky. In the private sector, the risks are diversified because the entire society is not committed to a single, agreed-upon course of action. Individuals commonly disagree on what the future holds, as well as on what should be done about it. In an economy, as in an ecological system, diversity of approaches is probably a survival characteristic. Nothing in theory prevents government from being innovative. But the battle is harder and the rewards are smaller.

—RICHARD L. STROUP, writing in the Spring 1991 issue of *Population and Environment*

Who Is to Blame?

Many of us are all too quick to blame politicians in Washington or at our state capital for the problems that we face as a nation. This is absolutely wrong. You cannot blame politicians. You might blame them for not acting like statesmen, but 99 percent of the blame rests with each of us. Politicians are doing precisely what we send them to Washington and our state capitals to do, namely to use the power of their office to take that which belongs to another American and then to bring it back to us.

—WALTER WILLIAMS,
speaking at Saint Vincent College,
February 5, 1991

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

Dead Souls

Forget what you have heard and read about lazy, thieving Soviet workers. It is the socialist system that is rotten, not the people. The old Soviet socialist system was unproductive because it was a mass of disincentives. Moscow dictated the salary of a Norilsk miner far in the North and of a cotton grower deep in the South. You got what some bureaucrat said you should get rather than a market-clearing wage. This led to bad labor discipline; the fired drunkard immediately crossed the street and went to another factory for the same small salary.

Yet factory managers fought to swell their payrolls. To squeeze more money out of the bureaucracy, each company tried to fake the number of working hands it needed. Unneeded workers were known as "dead souls"—after Nikolay Gogol. There were some 12 million of them in the Soviet Union.

—VLADIMIR KVINT, writing in the May 27, 1991, issue of *Forbes*

Culture Begins at Home

Conservatives hardly are agreed on the proper role for government in culture; in my opinion the burden of proof of the benefits of government intervention lies with those who advocate such intervention, not with those who oppose it. But whatever the role of government should be, conservatives should be clear about one thing: people should not be forced into certain kinds of cultural expression, and out of others. What conservatives ask for from culture, they must ask for in the culture of their own lives. In the formation of culture, conservatives should not talk about "them," but about "us." In this, as in so many other matters that affect our lives, culture begins at home. We must always remember that it is only through example, not through compulsion, that a freely chosen culture can be formed.

—SAMUEL LIPMAN, publisher of *The New Criterion,* speaking at The Heritage Foundation, June 14, 1991

Underpriced Resources

Why are there underpriced resources available in the market? Because of ignorance. If every participant knew exactly what the factors of production are worth, there would be no profits or losses. But no one knows for sure what anything is worth, that is, what the rational, market-clearing price of anything ought to be. It is the continual quest for better information about the proper pricing of factors of production that is the driving force of the capitalist system. It is not just goods and services that are for sale in the free market; it is also accurate information about prices. We pay dearly for accurate information. Sometimes we pay dearly for inaccurate information. (If we had better information to begin with, we wouldn't.)

—GARY NORTH, writing in the June/July 1991 issue of *Biblical Economics Today*

The Moral Basis of Society

Within the business community, if you don't have a moral basis for entering into economic transactions it's going to be very difficult to carry them on. You need trust; you need a sense of the dignity of the individual. . . .

One of the issues that the Soviet Union and Eastern Europe are facing is how they rebuild their moral and ethical basis for actions so that they can have market economies. Simply going to those economies and saying "All you need is freedom, private property rights and prices" is not enough. You have to have a moral basis for a society to function.

—P. J. HILL, from an interview in the November/December 1991 issue of *Religion & Liberty*

Reader's Digest

Reader's Digest recently reprinted two *Freeman* contributions by Donald G. Smith. Don's September 1991 *Freeman* article, "How to Be an Individual," was reprinted in the January 1992 *Reader's Digest* as "If You Want to Make a Difference." And his July 1991 *Freeman* Perspective, "Anyone Can Do It," was carried as a "Point to Ponder" in November 1991. We have *Digest* reprints of "If You Want to Make a Difference." Let us know if you would like one or more copies.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

THE FREEMAN
IDEAS ON LIBERTY

The Shoemaker of Los Baños

by John Stull

Each year, the Lions Club in our small southwestern Missouri town of Hartville (population 593) puts on a large fireworks display on the Fourth of July. The organization collects money from the community and, with a generous contribution of its own, has a show to which people come from far and wide. The club shoots off its display from crude mortars on a bluff directly below our house. This is almost the exact position of one of the cannon with which young Confederate General John Sappington Marmaduke shelled the town on a cold January day in 1863. Thus, the rockets' red glare has some historic meaning in this community, and, this past year, there was the added fillip of President George Bush's morning parade and speech in the nearby town of Marshfield.

Our front porch provides a ringside seat for the festivities, and we always have a barbecue prior to the show. Our guests sit in chairs or on the old stone steps. This year, I happened to be in the step group, and in the light of one of the star showers, I chanced to glance back. No child was showing greater delight than my friend Bill Detzer, age 93. It suddenly occurred to me that Bill must have a built-in, personal celebration of Independence Day, going on all the time. He was the only person in our group that night who had lost—and regained—his freedom. As Bill himself phrases it, he was a guest of the Imperial Japanese Army for three years, two months. He was made a prisoner of war less than a month after the Japanese invaded the Philippines in December 1941.

From the exultant look on his face, it was obvious Bill was enjoying the fireworks—and something more. It was more than a show to him, it was being there—something the rest of us took for granted. To use the words from one of George Washington's speeches, Bill was exalting the just pride of patriotism and rejoicing in the name *American.*

It came to me that of all the people I know, Bill seems to enjoy life the most. He steps out smartly into his days, and his sense of humor is relentless and unimpaired. He lives now in Monterey, California, but he braved the bad weather and flew back here last Christmas alone. His godson, Oliver Max, accompanied him on the Fourth of July visit. Bill goes wherever he chooses to find the action he likes, age no issue.

After years of friendship, seeing that look of almost transcendent joy in Bill's face made me really want to know his wellspring. Did he have this edge of enjoyment in spite of, or because of, the Imperial Japanese and his years of incarceration at bayonet point? In a day or two, following our July 4 celebration, we had a long talk, one-on-one, man-to-man. We talked about the way it was when everyday, common freedom was only a

Mr. Stull, who retired from the United States Navy with the rank of Commander, later served in the California Assembly and Senate. He now lives in Missouri.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

memory and forlorn hope to Bill. Fifty years has dulled the pain but not yet made it possible to talk about some facets of the ordeal; still he told me enough based on an acute memory.

Bill's Philippine experience began in 1903. The liner on which he and his mother were traveling entered Manila Bay on Christmas Eve of that year. His father, Carl Detzer, was the fiber expert for International Harvester and was in the islands to secure the best hemp for the new self-binding machines to use in harvesting wheat and other grains. The Detzer family stayed in Manila for four years, and Bill attended the American School on Calle Nozalayta, where he learned Spanish along with English and a smattering of Tagalog.

Later, when his father was transferred, he studied at Kings College at the University of London. When war was declared in 1914, the family returned to the United States, and Bill attended the Stevens Institute of Technology in Hoboken, New Jersey, and subsequently graduated with a mechanical engineering degree. After this, he worked in a bank, invented a special type of centrifugal pump, acted as a rental agent for an uncle working in the Hollywood film industry, and he became very active in the Los Angeles Junior Chamber of Commerce, where he headed a number of important committees.

Finally, he realized that though he was making a lot of money, he wasn't going where he wanted. He decided to take a job in the Philippines, of which he'd always had fond memories. With a new future facing him, he embarked on the *Silver Teak*, arriving in Manila on December 3, 1933, almost exactly 30 years since his first visit. After several years working with a company who were agents for Bethlehem Steel, an opportunity came for Bill to work for Bethlehem Steel directly, and he became their Far East Representative. For seven years, Bill lived the exciting life of a man about the Orient, sometimes returning to the States on Pan American's glamorous clippers, sometimes traveling in a more leisurely manner by ship. Business took him to Japan a few months before the war, when there was a great deal of antagonism toward Americans.

However, Bill believed, in spite of stringent U.S. sanctions against Japan, that the situation would be resolved and wouldn't escalate into shooting. He learned how wrong he was when a friend phoned at 4:00 A.M. on December 8, 1941, to tell him about Pearl Harbor. The attack on the Philippines came just hours later. There was a great deal of frustration and bitterness as everyone began to realize an invasion was just a matter of time.

With the quixotic idea of preserving some property belonging to a friend, Bill declined to take a Navy cutter ferrying people to Corregidor. This probably saved his life, as after the fort surrendered, the large group of which he would have been a part was put on an unmarked ship and, en route to Japan, was sunk by Allied bombers.

Manila was soon declared an open city, and on January 2, Bill and the other Americans, British, and remaining Allied nationals were rounded up and listed as "enemy aliens." Several thousand men, women, and children were herded together at the Royal and Pontifical University of Santo Tomás, founded by the Dominicans in 1611.

Fighting for Survival

The long fight for survival began for Bill Detzer at the Santo Tomás Internment Camp. Although he went through hell, he was one of the lucky ones. The "In Memoriam" list compiled after the war is long for those who entered the camp. It isn't even complete because the Japanese buried bodies in vacant lots, backyards, even the sea, with no record.

The situation was appalling from the start. A few days after arriving in Santo Tomás, the prisoners were horrified to find a large sign: "INTERNEES IN THIS CAMP SHALL BE RESPONSIBLE FOR FEEDING THEMSELVES." Told to take a few days' supply of food when they left for the camp, the prisoners were soon depending on friends on the outside, foodstuffs put up for sale in the camp, the Philippine Red Cross, and what they could grow themselves. After six months, the Japanese began to make a minimum food allowance. At 6 feet 1 inch, Bill weighed 190 pounds when he went to Santo Tomás and 123 pounds when he was freed in February 1945.

On May 14, 1943, the Japanese moved 786 single men and 12 Navy nurses 70 kilometers away to the Agricultural College at Los Baños. The reasons given for the move didn't seem valid. Speculation was that so many unattached men posed a threat. The war had definitely turned against the conquerors, and they were jumpy.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

The day the men and nurses were to leave, they were awakened at 5:00 A.M. as the loud notes of "Time to Get Up" blared throughout Santo Tomás. The deportees were loaded on trucks as the loudspeakers resounded again—"Anchors Aweigh" and "The Stars and Stripes Forever." The songs, of course, were supposed to be an added humiliation to people transported like cattle.

After arriving at Los Baños, Bill embarked on the most remarkable events of his captivity. Although a prisoner behind two high fences with coiled barbed wire in between, under constant surveillance of vigilant guards, he contrived to meet the Bethlehem Steel payroll. He knew exactly what he was risking—torture and death.

It came about this way. On the strangely effective, but maddeningly spotty grapevine that twisted from the outside through both Santo Tomás and Los Baños prisons, Bill heard that his former company staff was in dire straits, on the verge of starvation. The much touted Japanese Co-Prosperity Sphere and the Orient for the Orientals didn't include most Filipinos. Bill was horrified to learn that working for an American company had made them doubly suspect. He resolved to help these people as best he could.

But what could he do? The answer came through his new profession—camp shoemaker.

The opportunity had presented itself when Bill suffered heat prostration while working in the garden at Santo Tomás. He was assigned to inside work and, after talking it over with friends, decided shoemaking had the greatest possibilities. He began at Santo Tomás and continued at Los Baños. The work was done under the crudest conditions with old tire sidewalls, the material provided. Of five shipments sent by the Red Cross, only one reached the prisoners. Fortunately, this included a few items that made Bill's new vocation a bit easier.

If shoes were beyond prison repair but could be salvaged with better equipment, the Japanese would let Bill send them out to a Filipino cobbler shop. The shoes were inspected both going out and coming back. Nevertheless, through the shoes, Bill sent and received messages and dispersed large sums of money.

His first step was to contact a Chinese friend, Yu Khe Jin, owner of Yutivo Sons Hardware in Manila. Mr. Yu was the largest buyer of steel in the Philippines and the best customer of Bethlehem Steel. Mr. Yu made approximately five million Philippine pesos available to Bill. With this money, Bill paid the Bethlehem staff, including the office boy, as though they were still working. It was a tricky, harrowing enterprise, and Bill was fearful not only for his own sake but for everyone else involved in the operation. After the war, from the meticulous records kept by Bill, Bethlehem Steel reimbursed Mr. Yu for the full amount.

Bill Detzer

Liberation!

Santo Tomás was liberated early in February 1945, but Los Baños still was behind enemy lines. There was a strong rumor that before giving up this camp the Japanese planned to massacre the Los Baños prisoners. By then, these numbered over 2,000. Acting on the rumor, General MacArthur authorized a daring raid. On February 23, 1945, in a coordinated effort, paratroopers of the 11th Airborne, amphibious tanks, and Filipino guerrillas led by American officers converged on the camp.

The attack from land, water, and sky was a complete surprise, and 250 Japanese were eliminated within minutes. Miraculously, none of the prisoners received more than a few superficial

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

wounds. However, both rescuers and rescued were still behind enemy lines, so it was important to get out of the area as fast as possible. That night, Bill slept on the hard stone floor of the old Mutinglupa National Prison outside of Manila, on the feather-bed of freedom.

The horrors Bill experienced have not completely receded and, of course, never will. However, when I asked if there were any benefit from living in hell, Bill thought for a moment and replied: "Oh, yes! A special kind of friendship." Bill keeps in touch with Yu Khe Jin and his children in Australia and Vancouver, as well as with the surviving Bethlehem Steel employees he paid via the shoes. Until their deaths, he stayed in close contact with the three men who shared his quarters at Los Baños—Abbott Shoemaker, Henry S. Carpenter, and Steve Arick—all of whom went on to successful business careers. After a year and a half of recuperation in New York City, Bill returned to the Philippines for Bethlehem Steel, where he remained until retirement.

It is no wonder that Bill Detzer enjoys each moment. He learned the art at the hardest possible school. What impressed me the most in my long talk with him was his bold use of the slight freedom he had enjoyed while in prison, and the far-reaching results. All he had were the shoes, Mr. Yu, and the cobblers. I asked if he had tried to bribe the Japanese guards, and he replied, "No, they were incorruptible." The collaborators had to be silent and totally circumspect, since the window of opportunity was minuscule and might be shut at any minute, with appalling ramifications. However, even a minuscule amount of freedom sometimes will serve if not to solve a situation, at least to ameliorate it.

From talking with Bill, it seems clear that many prisoners survived the camps because of the *use* they made of the marginal amount of freedom permitted by the Japanese. Even when so appallingly diluted, this freedom was strong enough to make a life-or-death difference in the whole conduct of the camps. By applying their freedom, the prisoners rose above the order imposed by Japanese bayonets, and were able, in large measure, to avoid chaos and its resulting despair. Through a group-appointed prisoner committee, the internees were allowed to govern themselves within Japanese rules. Although the rules were often outrageous, grim, and encompassed every facet of life, this mere trace of self-determination maintained self-respect and the hope and dignity engendered by self-respect.

The prisoners were ill-used, ill-housed, ill-clothed, ill-washed, plain ill, and so ill-fed that before their rescue, they came to look like scarecrows. Nevertheless, their own self-government kept the majority of them from falling into complete helplessness, total despair, or unthinkable barbarity, preying on each other. Bill says there is no way to describe the titanic efforts made by the Internee Committee, nor is it possible to count their accomplishments, fabricated almost solely by determination and zeal. Several of the leaders had been top executives in prestigious companies before they met this ultimate test of their management skills by using every small niche left open by their captors. The freedom of the small clefts grew to a maintained and definite identity, and with this identity, thousands of internees found the will to survive as human beings.

Bill saw men wrapped in barbed wire and shot. In spite of this knowledge of what the Japanese were capable of, he made his company's payroll, maneuvering the whole endeavor from a tiny pocket of freedom, taking what he considered a justifiable risk to achieve a worthwhile goal. It was a long time ago, but Bill Detzer still has those things with which he left Los Baños—special friendships, a sense of accomplishment, and appreciation. For almost 50 years, he has taken nothing for granted. No wonder his face lights up in the rockets' red glare. He knows not only the words but the meaning of life, liberty, and the pursuit of happiness. In his darkest hour, he learned freedom is not static. It is what you make of what you have. □

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

What Does Affirmative Action Affirm?

by Wendy McElroy

Recently I learned that a friend of mine had been passed over for tenure at an Ivy League school. This was surprising to me. He had been teaching at the university for several years and was immensely popular, not only with the students but also within the department. With a book and several journal articles to his credit, his qualifications were in good order. So what was the problem?

He explained it to me: He was a white male in a department that needed more visible women and minorities. Never mind that the woman hired had less experience and fewer credentials. Never mind that the university had been grooming him for the position. (Indeed, the department head couldn't even look him in the eye while breaking the news.) Never mind that my friend is now so embittered that he tells his male students to forget pursuing a degree in the humanities, because credentials and quality don't matter anymore. If they are white and male, he insists, there will be no place for them in academia.

I hope he is overstating the case. But I understand his bitterness. It is difficult not to rail against unfairness when there is next to no recourse against it.

If my friend were a woman, he could sue the university for unfair employment practices under Title VII of the Civil Rights Act of 1964. This section of the act states that it is unlawful for an employer "to fail or refuse to hire or discharge any individual, or otherwise to discriminate against any individual with respect to his compensation, terms, or privileges of employment because of such individual's race, color, religion, sex or national origin."

But to bring such a suit, he would have to belong to a class protected by Title VII—he would have to be a woman or a minority. As a male from German-Irish ancestry, he isn't simply excluded from protection; he is, in fact, the person against whom protection is being offered. Why is this protection necessary? My friend has always been sex-blind when it comes to his students and colleagues. Why, then, do women have to be shielded from him?

Because, it is argued, women have historically been discriminated against in employment. Since white males (as a class) have benefited from this injustice, they must now (as a class) bear the brunt of adjusting the balance.

But something about this "class analysis" goes against the grain. It isn't merely that it negates any individual actions or responsibility; it is more that "discrimination in pursuit of equal treatment" seems to violate our common sense. This contradiction leads wayward feminists, like me, to ask: What exactly is affirmative action? And what is being affirmed?

Affirmative action has been defined as follows: "According to C.F.R. 1608, [affirmative action] is reasonable action, taken on reasonable bases after reasonable self-scrutiny leading to a business's belief that it has practiced discrimination in the past, or has chosen its employees from a labor pool that was limited by racism or sexism. The EEOC dilates on this in 44 Federal Register 4422, saying that affirmative action is a policy chosen to over-

Ms. McElroy is the editor of Freedom, Feminism, and the State *(Cato Institute, 1982), which has been republished as a university text by Holmes and Meier.*

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

come the effects of past or present barriers to equal employment opportunity." (Dana Shilling, *Redress for Success*)

These are the words. They mean that, if a company realizes it has been discriminating, it should remedy the situation. On ethical grounds, most of us would agree; although many of us would question the wisdom of enforcing the policy by law.

The Spirit of Affirmative Action

The spirit of affirmative action seems different from its words, however. To understand this spirit it is necessary to examine the roots of the issue in the context of the feminist movement.

First, I wish to acknowledge the truth of affirmative action's main claim: Historically, women have been the victims of discrimination. During the 19th century, they were excluded from universities and unions, barred from professions such as medicine, and—upon marriage—often lost all title to whatever pittance they were allowed to earn. During the 20th century, the legal barriers confronting women fell, one by one. Certainly there are vestiges of legal inequality, but the instances are few—for example, women and men often receive different sentences for the same crime.

The cry for affirmative action makes no sense if the goal is simply equal treatment before the law. And, indeed, this is not the ideal being championed. Equal justice before the law and equal access to political power have long been entrenched as American ideals. Affirmative action introduces a new concept of equality—social equality.

This concept became popular during the cultural turbulence of the 1960s. Sixties reformers demanded far more than the removal of legal barriers based on sex or race; they called for equal access to the basics of life, such as adequate housing and food. Access to the basics was presented as the right of every American.

The fact that the law allocated these goods only to specific classes of Americans—e.g., blacks—was justified on two grounds. First, it was argued, they were the victims of another class of Americans, predominantly white males. Second, only by assuring equal access to such consumer goods as education could the disadvantaged compete fairly with white males.

In essence, the '60s called for a primitive form of socio-economic equality.

What of women in this new world? Although legal barriers to women had largely fallen, it was argued that the ill effects of history still impacted on modern women. The lingering injustice was especially blatant in the marketplace, which continued to undervalue women's work. The removal of legal barriers hadn't cured this exploitation; the institution of legal protection was required. It was necessary for the law to prefer women in order for the marketplace to treat them fairly.

In her essay, "Affirmative Action: History of an Attempt to Realize Greater Equality," Mary C. Thornberry explained:

> Broadly speaking, affirmative action measures include a whole range of special steps designed to overcome the consequences of past and present discrimination. These include compensatory and remedial training, validations of tests and criteria for jobs or university admission, the development by employers of recruiting procedures aimed at women and minorities as well as other qualified applicants, provision of child care centers and remedial programs to remove handicaps in employment, and related measures to help the disadvantaged realize their potential. . . . In order to overcome the effects of past practices which resulted in discrimination, companies must now seek out those who were formerly ignored.

Why should an employer accept these requirements? Because the costs of swimming against affirmative action can be very high. Although preferential policies are not always mandated by law, they have been well established through judicial rulings. In 1980, for example, a court ordered the Ford Motor Company to give $13 million in back pay to women and minorities. Attorneys' fees alone can bankrupt a company. In a sex discrimination case against the University of Minnesota, attorneys' fees came to $1,475,000. The successful plaintiff later abandoned academia to become a lawyer.

The Justification for Preferential Treatment

Thus the marketplace, in self-defense, has adopted a de facto quota system that protects it against charges of discrimination. How, in the name of fairness, have we arrived at a system that

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

openly discriminates on the basis of sex? Fundamentally, three arguments have been offered: 1) social good, 2) compensatory justice, and 3) the ideal of equality.

The social good, or utilitarian, argument states that society will be enriched by advancing women. This is a relatively lightweight justification, since advocates of affirmative action generally concede that they would push equality even if it lowered the overall good of society. Moreover, it is easy to point out the disastrous long-term consequences to society of using a quota system rather than merit to allocate jobs. Affirmative action drives a wedge between individual worth and economic success. How does this benefit society?

Indeed, affirmative action might well increase the very evil it seeks to cure: prejudice. In order to fill their quotas, employers will promote women too quickly or into inappropriate departments. When these women fail, it will be seen as confirmation of the inadequacy of their sex. When other women succeed on their own, it will be assumed that they were coddled by preferential policies. And what of the men who are discriminated against? Their understandable resentment might well be translated into a heightened sexism—just as my friend's rejection has embittered him toward all of academia.

The argument from compensatory justice claims that anyone who causes injury to an innocent person should remedy the damage. The injured party should be compensated. Affirmative action goes one step farther, however. It claims that descendants of the injured parties deserve compensation as well. After all, the descendants (modern women) still live with the consequences of past discrimination. This is an argument for righting historical wrongs.

My objections to correcting the past fall into two categories: First, the people receiving compensation are not the victims. Second, the people paying compensation are not the perpetrators.

Let us consider the first objection: The women who receive the fruits of affirmative action are not the same women who suffered through centuries of injustice. Human mortality assures us of this. To maintain, decades later, that the "fallout" of injustice is also an actionable offense is to stretch the traditional conception of compensation to the breaking point.

In essence, to demand compensation for the great-grandchildren of social injustice is to confuse a commendable compassion with a legal claim. We are all victims or beneficiaries of our ancestors. But this is not a matter for legal theory; it is an accident of nature. In other words, it is neither just nor unjust; it merely *is*. Thus, the question becomes: If there is no injustice, how can there be a legal claim for compensation?

Let's now turn to the second objection: Those who are made to pay compensation—the employers, white men as a class, and taxpayers—are not the ones who committed the injustice. Overwhelmingly, the perpetrators, like the victims, are dead. And I do not believe that guilt can be inherited. Herbert Deane in his book *Justice—Compensatory and Distributive* states this objection clearly:

> Present members of society are being asked to assume the responsibility not only for unjust acts in the present or the recent past in which they may have had no share, but also for acts of discrimination which were performed, long before they were born, and when their fathers and grandfathers may not have been Americans at all, but may have been suffering persecution and discrimination, for example, in Eastern Europe. We are, in other words, asked to accept the principle of collective guilt that is at least in part inherited from some of the ancestors of some contemporary Americans.

The third common argument for preferential treatment is a moral one, based on the ideal of equality. But what sort of equality is being championed? Social equality? Economic equality? Equality before the law?

The relevant question is: When does a difference between people become an inequality? If my hair is brown and yours is blonde, presumably this is a difference between us. But, if we live in South Africa and my skin is brown while yours is white, this is an inequality. Why? Because a normative judgment is attached to the difference. In particular, the South African government considers white-skinned people to be superior and grants them privileges under the law. This is inequality.

Traditionally in America, equality is said to exist when people receive the same treatment under the law or have the same access to political power. This focuses on the individual and his or her relationship to the state. But equality promoted by affir-

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

mative action demands equal access of women or minorities to wealth and opportunity. This focuses on classes of people and their relationship to other classes, or to society in general. These two concepts of inequality are incompatible.

For example, in pursuit of equality, affirmative action takes no notice of the status of individuals within a given class, such as "man." Indeed, there is not even a distinction made between individual women. Thus, the privileged daughter of a Rockefeller is considered as much a victim of society (or white males) as the poorest black woman.

Moreover, the equality demanded by affirmative action destroys what has been one of America's traditional safeguards of freedom—the protection of the peaceful individual against intrusion by the state. In the name of social justice, virtually all conduct is open to regulation by the government. In the name of class equality, individuals lose their right to make their own decisions.

There is an irony here. The best safeguard against discrimination of any kind is the very mechanism that affirmative action is destroying: the free market unhampered by state control. The free market tends to limit discrimination simply because discrimination costs money by alienating customers and reducing the pool from which trained personnel can be drawn.

My favorite example of how the free market limits discrimination comes from the civil rights movement in the '50s and '60s. In Montgomery, Alabama, a black woman was arrested for sitting in the front of a bus, rather than in the back. What responsibility did the bus company have for this injustice? For many years, bus companies in the south had refused to enforce laws that required them to discriminate against blacks. A customer was a customer. The company in Montgomery had been among those who refused to discriminate. Only when streetcar conductors began to be arrested for noncompliance did bus companies obey the law.

The marketplace is no more just than the society in which it operates, but it does operate along different principles. Entrepreneurs compete in the market to try to get customers and the best employees. Profits and losses are the bottom line. Thus, the free market tends to be blind to color and sex. It is a great leveler of prejudice.

* * * * *

Unfortunately, theorizing can bring little solace to my friend, who is debating whether to abandon the one career that has meant anything to him. There is no encouragement I can give him. What he says is true: No matter how good he is or how much he cares, doors are slammed in his face because he is a white male. I cannot encourage him because I feel almost as outraged as he does.

It makes me realize that I have been too polite. I think I will practice being angry and indignant, in preparation for the next time a feminist acquaintance extols affirmative action. Someone has to get blunt and tell such feminists to put up or shut up about equality and suffering and justice. Because, so far, all I've seen of affirmative action is discrimination, viciousness, and sloppy thinking. It is the sort of policy that gives feminism a bad name. □

IDEAS ON LIBERTY

The Mischief of Regulation

The modern conviction, the fruit of a thousand years of experience, is, that things in which the individual is the person directly interested, never go right but as they are left to his own discretion; and that any regulation of them by authority, except to protect the rights of others, is sure to be mischievous.

—JOHN STUART MILL, *On the Subjection of Women* (1869)
quoted in "Government Is Women's Enemy" by Sharon Presley and Lynn Kinsky, in *Freedom, Feminism, and the State.*

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

The Gender Gap

by Cynthia D. Lee and Dwight R. Lee

As of 1980, American women had possessed the right to vote for 60 years through the provisions of the 19th Amendment to the United States Constitution.[1] Until that year, women had voted in national elections much the same way men had voted. Beginning in 1980, however, a phenomenon that became known as the gender gap appeared, when women voted for the Democratic Presidential candidate in noticeably larger percentages than men.

Women's groups have applauded the gender gap as evidence that women are beginning to display the solidarity to assert themselves politically. Eleanor Smeal, past president of the National Organization for Women, writes in her book, *Why and How Women Will Elect the Next President*: "The 'women's vote,' a powerful new voting bloc, will make the difference in political contests. There is no doubt."[2]

The hope that women, by rallying around common political interests, would exert decisive influence over government policy has a long history, beginning before the Civil War when the women's suffrage movement started. Suffragists believed that a sisterhood was necessary for the good of society—a sisterhood that would exercise a more positive political influence than that exercised by the then male-dominated electorate. The suffragists claimed that a sisterhood would bring peace and prosperity to all, that "war, imperialism, and vice would be reduced or eliminated"[3] if women could vote.

Cynthia D. Lee is an educational consultant. Dwight R. Lee is the Ramsey Professor of Economics at the University of Georgia, Athens.

Implicit in this claim is the belief that women have interests different from those of men. Therefore, with suffrage, they, as well as society, would be better represented in the political process. Supposedly, once women obtained the right to vote, they would unite and vote as a bloc, creating a gender gap. In fact, no such gender gap appeared as the immediate result of women's suffrage.

The women's suffrage movement itself did not enjoy wide support among women. Millions of women sat silently on the sidelines or joined anti-suffrage organizations. It was a small minority of women who fought for over 70 years to obtain the right for women to vote, and once this right was obtained very little changed at the polls. The great sisterhood did not arise. Most women stayed away from the polls, and those who did vote didn't do so as a bloc. As political writer William L. O'Neill observed, in the national elections of 1936, "only about half as many women as men registered to vote and when they went to the polls they voted as their husbands did."[4]

Political Reality vs. Feminist Fantasies

Has a gender gap finally arrived that reflects a growing solidarity of women in support of women's issues? Notwithstanding the pronouncements of feminists such as Eleanor Smeal, there is no evidence that women are being led like lemmings in political support of a "women's agenda." Indeed, it is insulting to women as intelligent and independent citizens to suggest that a sisterhood of political solidarity can ever be a realistic possibility.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

Certainly there are important differences between men and women, and it would be naive to assume that all the political interests of women are identical to all the political interests of men. Yet there was, and still is, more overlap in the political interests of the sexes than is suggested in the writings of the suffrage pioneers and modern-day feminists. At some point in their lives, the majority of women are coupled with men. Whether the couple contracts their relationship formally through marriage, or informally through an arrangement of "living together," it can be argued that in matters of general interests, these women are advantaged by the same general political and economic climate that serves the interests of men—and vice versa. Only when we begin to consider narrowly focused interests are we likely to find significant differences between the interests of men and women.

If the role of government is largely limited (as it was in the United States until roughly the 1930s) to protecting the borders, controlling crime, enforcing the general laws of commerce, and providing a basic infrastructure (i.e., creating an environment in which people can pursue their personal objectives in productive cooperation with one another), then the detailed differences in the concerns of women and men are not politically relevant.

Some women are married, while others are not. Some women are employed outside the house, others are not. Some women have children, others do not. Some women live in rural communities, others do not. The interests of some women are tied—either through their own employment or that of their husbands—to the profitability of exporting firms, while the interests of other women are tied to the profitability of importing firms. Therefore, when government attempts to address the specific concerns of one group of women it necessarily does so at the expense of other groups of women.

Special Interests Compete

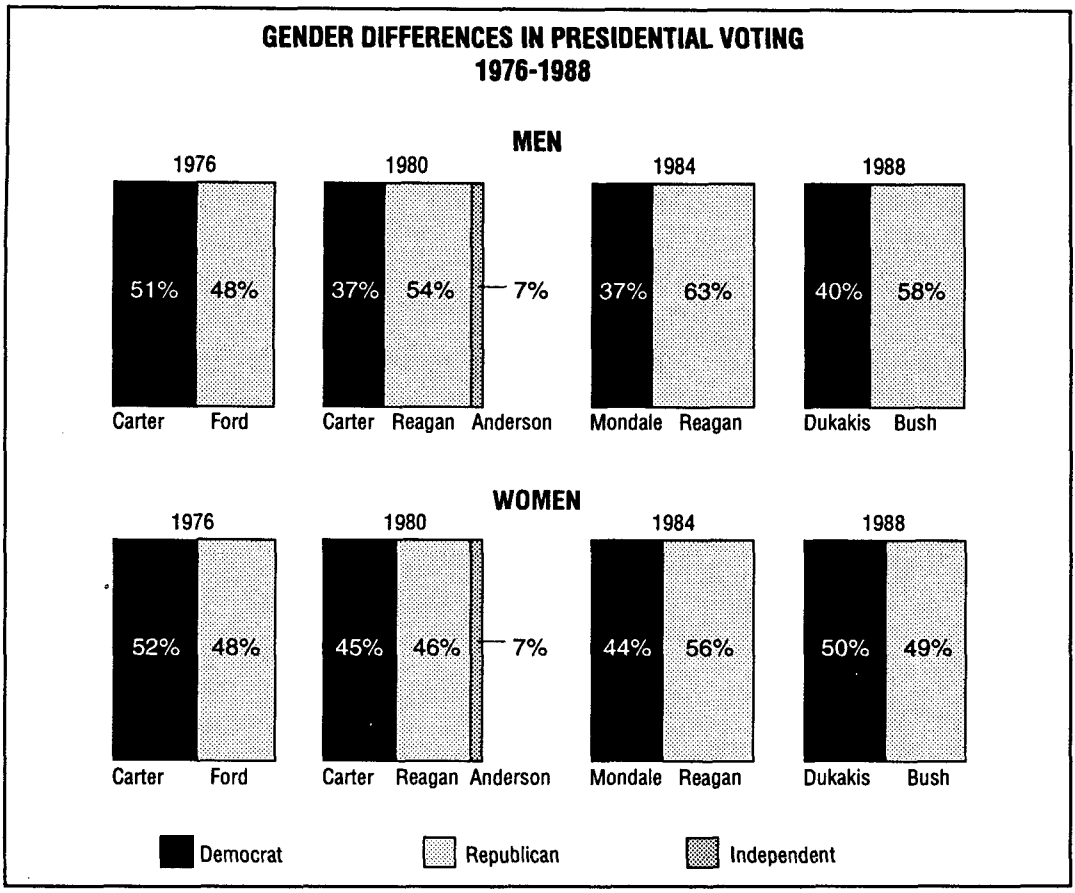
The natural response to a government that stands willing to cater to the interests of narrowly motivated interest groups is the formation of a multitude of special interest groups, each competing for the largess and privileges that government can provide only at the expense of other interest groups and the general public. The prospects of such a competition can be expected to do little to motivate political solidarity among women.

Indeed, as the political environment becomes increasingly characterized by special interest competition, the control that can be exercised over government through voting becomes weaker. As a bloc, voters can grant, or withhold, the power government needs in order to pursue laudable sounding but vaguely defined objectives. However, even here the control is tenuous since it is typically exercised by voting for one of two candidates for a public office who both make appeals for votes with vague promises to support all that is virtuous and to oppose all that is evil. And once power has been granted for government to pursue some objective, voters have almost no control over the effectiveness of that pursuit. Relatively small groups, each with an overriding concern and tightly organized around that concern, will exploit government programs with laudable goals by lobbying aggressively and persistently for those programs to be designed, staffed, and implemented in ways that promote their particular objectives. So the more government concerns itself with the narrowly focused interests that allow differences between the interests of men and women to become politically visible, the less important the vote is in determining political outcomes.

It is true that women activists, who have a long pre-suffrage history of political lobbying, are more effective when lobbying over women's issues if they can inform politicians that they represent a bloc of women voters who will remember how the politicians vote on those issues. But, as argued previously, if those issues are general, with widespread support among women, they are probably issues that would be widely supported by men as well. On the other hand, if an issue arises out of narrow concerns that can activate a bloc of women to vote in unison, then almost surely this united vote favors government activity that harms the interests of many other women.

Thus, the hope that women would join together in a sisterhood and exert their influence by voting as a bloc should have been seen as an impossible dream. But some impossible dreams never die. As Carol Mueller writes in her book, *The Politics of the Gender Gap*, "There were hopes . . . in the early 1980s that this new 'gender gap' would fulfill the long-delayed dream of suffragists that women would vote as a unified bloc."[5]

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED



The 19th Amendment was ratified on August 18, 1920. In the fall 1920 election of Cox versus Harding, women did not vote in mass numbers and certainly not in a bloc as the suffragists had argued they would. After the dismal showing of 1920, the League of Women Voters set up a "get out and vote" campaign for the 1924 elections. The net gain of women's votes in the 1924 elections was a paltry 1 percent.[6]

Until the 1980s, women continued to vote much like men, except in smaller percentages. But with the Presidential election of 1984, there was an upsurge of renewed hope. For the first time in a national election, exit polls revealed that more women voted than men, and that women (as they had for the first time in 1980) voted Democratic in significantly larger percentages than men.

Eleanor Smeal had predicted that "the women's vote will be the decisive factor in the 1984 Presidential elections."[7] While the women's vote in the 1984 Presidential election wasn't decisive, it did appear a trend was beginning: that indeed, there was a difference between men and women in their choice of candidates. However, feminists ignored the fact that women didn't vote as a bloc even with Geraldine Ferraro running for Vice President on the Democratic ticket.

Given the election results of 1980 and 1984, women were widely expected to hold the balance of power in the 1988 Presidential election. The *Congressional Quarterly* speculated on April 2, 1988, "if this year's White House contest turns out to be a close one, as still seems possible, a recurrence of the 'gender gap' could spell the difference between victory and defeat." Although a gender gap of sorts did exist in the 1988 Presidential election, as in the two previous Presidential elections, this gap had no effect on the outcome and suggests, if anything, that women are less likely to vote in a bloc, of the type envisioned by feminists, than are men.

In the 1976 Carter/Ford election, men and women supported the two candidates in almost identical proportions.[8]

In the Carter/Reagan 1980 election, with John Anderson running as an independent, 37 percent of males voted for Carter, 54 percent for Reagan, and 7 percent for Anderson. Among female vot-

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

ers, 45 percent voted for Carter, 46 percent for Reagan, and 7 percent for Anderson. "The most dramatic split between men and women in the history of modern election polling emerged this year," according to the *National Journal*.[9]

In the 1984 Mondale/Reagan election, 37 percent of males voted for Mondale and 63 percent voted for Reagan, while 44 percent of females voted for Mondale and 56 percent voted for Reagan.[10]

In the 1988 Dukakis/Bush election, 40 percent of males voted for Dukakis and 58 percent voted for Bush. Fifty percent of females voted for Dukakis and 49 percent voted for Bush.[11]

In 1986, Bella Abzug and Mim Kelber wrote: "The most important story of the 1980 election results . . . was that a new and distinct political phenomenon—the gender gap was revealed; it showed a marked difference between women and men in their candidate choice."[12] Feminists declared that the 1980 Presidential election revealed a gender gap for the first time in history, and that this would be a precedent for ensuing elections. Clearly the analysis of voting behavior from 1976 to 1988 shows that this isn't so. There is no evidence of the trend the suffragists and modern-day feminists have long hoped for. Women are not becoming more powerful at the polls by rallying around a common political agenda and voting in a bloc.

In fact, in the 1988 Presidential election, women were virtually split in partisan voting 50-50. As reported in the *National Journal*, "The gender gap represents one of the great ironies of the 1988 election. . . . Women were about evenly split, while men gave Bush a solid margin of 18 points. The gender gap controlled the outcome of this year's election, but not in the way feminists had predicted. Men elected Bush."[13] In the national elections of the 1980s men have shown more political solidarity than have women, who have shown practically none.

Women, as individuals, are far too diverse and independent to ever be pigeonholed politically, and expected to perform at the demand of a united sisterhood. The idea of women voting in a bloc in support of "women's issues" is insulting to the intelligence, independence, and individuality of women. Feminists have based their hope for political power on the expectation that women will use their vote to respond in mindless lockstep to some mythical political interest women supposedly have in common. This hope will continue to be frustrated. □

1. Several states granted women the right to vote in local, state, and, in some cases, Presidential elections long before the 19th Amendment to the Constitution in 1920.

2. Eleanor Smeal, *Why and How Women Will Elect the Next President* (New York: Harper & Row, 1984).

3. Carl N. Degler, *At Odds: Women and the Family in America from the Revolution to the Present* (New York: Oxford University Press, 1980), p. 2.

4. William L. O'Neill, *Everyone Was Brave* (Chicago: Quadrangle Books, 1969), p. 271.

5. Carol M. Mueller, ed., *The Politics of the Gender Gap: The Social Construction of Political Influence*, volume 12, Sage Yearbooks in Women's Policy Studies (Newbury Park, Calif.: Sage Publications, 1988), p. 16. See specifically "The Empowerment of Women: Polling and the Women's Voting Bloc," pp. 16-36.

6. Mildred Adams, *The Right to be People* (New York: J. B. Lippincott, 1967), p. 188.

7. Smeal, p. 8.

8. These findings emerged from a detailed Election Day survey of 14,836 persons as they left the polls, conducted by CBS News, and from similar surveys by NBC News and other news organizations. *National Journal*, November 6, 1976, pp. 1588-90.

9. *National Journal*, November 8, 1980, pp. 1876-78.

10. *National Journal*, November 10, 1984, pp. 2130-32. It is interesting to note that fewer women voted for the Democratic Presidential candidate in 1984 than in 1980, surely a great disappointment for feminists who expected Geraldine Ferraro, the first female major-party Vice Presidential candidate, to mobilize the female vote.

11. *National Journal*, November 12, 1988, pp. 2853-55.

12. James David Barber and Barbara Kellerman, eds., *Women Leaders in American Politics* (Englewood Cliffs, N.J.: Prentice Hall, 1986). See specifically "The New Gender Gap," by Bella Abzug with Mim Kelber, p. 247.

13. *National Journal*, November 12, 1988, p. 2854.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

The Illusion That's the Welfare State

by Tibor R. Machan

I write this essay in a small town near Gdansk, Poland, where I am lecturing for a week on political philosophy. On my way here I stopped over in Hamburg to visit with my mother and uncle and other family members. During this visit, there was lots of talk about current geopolitical and economic affairs. My uncle, mother, and I all hail from one of the formerly Communist countries, and it is fascinating to speculate on what will happen in our homeland and the other Eastern and Central European nations now that the Soviet empire has receded.

It is important to stress one thing—the East has experienced not so much socialism, let alone Communism, as a modern version of feudalism. By Marx's own account, no move toward socialism was possible in greater Russia and the nations it colonized without either a prior capitalist stage or the conquest of the West. Barring such miraculous developments, these countries could only play at socialism, even in Marxist terms.

What in fact happened here was the revival of something akin to mercantilism: the vigorous practice of command economics. The main difference is that mercantilism didn't denounce commerce, it merely made it public policy. In the command economy, in contrast, there is a theory that is used to guide the economy in a specific direction, namely, industrialization and anti-consumerism. The theoretically determined collective needs of society as a whole are to be served.

Tibor R. Machan teaches philosophy at Auburn University, Alabama.

It is this kind of system that is to be blamed, whatever modern name is given it, for the incredible impoverishment of all these countries. It also may be blamed for throttling traditional ethnic and religious enmities that by now probably would have worked themselves into a more moderate tone. Instead Eastern Europe and the Soviet Union are just now experiencing what Western Europeans have largely gotten out of their systems and for which they have substituted a more-or-less liberal social order.

We may debate how best to explain recent events in Eastern Europe, and I have made my own efforts to do that. What is certain is that Poland, Hungary, Romania, and the rest are poor, as is, of course, the Soviet Union. This state of deprivation had been engineered until recently with the aid of a somewhat plausible Big Lie: that the West is a major military threat. Modern communication technology blew that barefaced deception out of the water. So the political economy of austerity that command economies generate no longer could be shoved down people's throats. Thus the recent market-oriented revolution throughout the region.

But what now? In the course of my discussions with relatives, my cousin Nicola argued that the East needs to transform its command system into a welfare state. Her motives had more to do with a sense of justice and compassion than with economic analysis. Nevertheless, she gave expression to ideas that are being avidly considered among Eastern Europeans, mostly in response to the

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

advice of Western experts sent there by labor unions, governments, and academic institutions. Most of these are trying to persuade Eastern European and Soviet authorities to establish a welfare state, or what is referred to in Europe as social democracy, as a substitute for the discredited command economy.

Social democracy amounts to the kind of order in which the bulk of the social problems of a country, including those arising in the economy, education, arts, sciences, agriculture, industry, and technology, are managed by means of democratic discussion and, ultimately, a vote. In the United States, this kind of order is the democratic welfare state, although those who wish to increase its scope refer to it as economic democracy or even democratic socialism. It is generally believed, at least by those who aren't mere opportunists interested in political and economic power, that such a system would be more just and kind than a purely free market.

A Benign Alternative?

The arguments put forward are the usual ones maintaining that capitalism is callous, heartless, mean, and neglects some of the essential elements of a decent society. The free market is supposedly too individualistic and discourages community service; it thrives too much on competition and too little on cooperation. The welfare state is alleged to be the more humane system, and in the wake of the evident unworkability of the command economy, a democratically administered socialism is submitted as the preferred alternative.

This message is being sent toward the East by many, and only a few are holding out for pure capitalism. Yet even among those who support a radical turn toward the free market, the most prominent and heeded are those who assert that the need for pure capitalism is only temporary. Once a country becomes economically solvent, they argue, the welfare state may well be the more benign alternative.

Janos Kornai, Hungary's foremost economist, who also teaches at Harvard University, suggests this in his book, *The Road to a Free Economy* (W. W. Norton, 1990). He points out that the only workable solution to Eastern European woes is an immediate switch to a free market system throughout the entire region. No welfare state is possible in these societies, since unlike most Western countries where the welfare state has been established, these nations lack the resources to sustain welfarism.

To clarify Kornai's argument, it may be useful to draw an analogy. Kornai seems to be saying that welfarism seriously debilitates a society, much as disease weakens a living being. The welfare state is unhealthy, certainly economically, but even politically. Still, people may be willing to put up with some drain on their productivity, and indeed may flourish in the face of heavy taxation, so long as they have a good shot at becoming prosperous and retain a hope of making further progress.

Not all ailments knock out an organism; some merely produce a setback. If the basic system of private property and free trade isn't abolished, welfare states can be tolerated. As in the case of certain physical ailments, the welfare state need not be immediately disabling. Yet, as with such nonfatal ailments, the welfare state is in constant need of extra support—a permanent crutch, as it were.

In the former Soviet bloc, the patients have no strength left. They must go on a disciplined regime of recuperation and cannot afford to be dragged down by the parasite of welfarism. But what about after substantial recovery?

What is crucial is that the welfare state—the likely economic outcome of economic democracy—can carry on only while there is a source of extra strength. A good example is deficit spending, which is often a consequence of welfare programs. It subjects people, including yet unborn ones, to involuntary obligations to produce over and above their wants and needs sometime in the future. And for a while most of us will put up with this, on top of our own personal debts and liabilities.

Lessons from the Laffer Curve

But as the Laffer Curve proposes, one can tax people for only so long, to only a certain extent. If each year one is taxed just a bit more, and one can, with increased effort, recover these losses, the system can last for a while. But since the welfare state tends to be perpetual and constantly expanding, there is an unavoidable result: It cannot last.

It is important to remember that personally chosen charity to those in temporary need doesn't function this way. If left to individuals and volun-

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

tary groups, responding to an emergency doesn't create a constant drag on the system. Moreover, in privately responding to such emergencies there is better knowledge of who needs and deserves support, where the help will do the most good, and so on. As with moral advice, so with moral support (even of the economic variety): knowledge of details is essential.

In many robust Western economies—getting less and less robust each year, however—the Laffer Curve thesis has not yet seen its full impact. After all, human beings used to endure much worse abuse than the welfare state imposes on them. They have survived—with some degree of health and well-being—slavery, serfdom, dictatorships, tyrannies, fascism, and even socialism. The welfare state may appear to be a mild example of political and economic misguidance and injustice. And it makes some people feel good about themselves, even as it frees them from personal moral responsibilities by imposing a share-and-share-alike policy on their communities.

We have a great opportunity for the West to learn from the experiences of the East. Unfortunately, however, many intelligent people have become skeptics and will follow their wishes more readily than the products of logical analysis. Such analysis produced, for example, the conclusion that socialism cannot create economic well-being. Ludwig von Mises and, later, F. A. Hayek demonstrated through elaborate logical and conceptual economic reasoning that the system will fail. Mises did this in his book *Socialism* published as far back as the 1920s, followed by Hayek's initial scholarly development of the idea and his more popular statement in *The Road to Serfdom*.

Unfortunately, there is such extensive anti-rationalism in Western intellectual circles that these scientific proofs tend to be widely ignored, and only major human tragedies seem to be heeded sufficiently to alter a course of action motivated by wishful thinking. Thus, perhaps if Eastern European societies follow Janos Kornai's advice and implement a fully free market system—not the hodgepodge mixed system we find in France, Germany, England, Japan, and the United States—it may demonstrate with factual, historical examples that welfarism is a false ideal.

Sadly, millions of people are unwilling to give genuine capitalism a chance, perhaps in part because they have become so comfortable in this halfway house of the welfare state that they are scared to leave it behind. So the East may be prevented from really fixing its problems, even though many know that without a true free market they will linger in economic and cultural malaise.

Maybe, though, we won't need to find out by historical example how much of a failure the welfare state is. Maybe there are enough tough-minded folks in the East, such as the Russian citizen who was recently quoted in *The New York Times*: "Now there are no owners. Nothing belongs to anybody. And from that simple fact come all the problems." □

IDEAS ON LIBERTY

Free Markets, Free People

The proper aim of economic life is an over-all aim: the use of limited human and material resources in such a way as to serve most effectively the needs and desires of all the people. This aim tends to be achieved automatically in a regime of free markets where the people's needs and desires can express themselves in price offers to which producers are forced by economic necessity to conform.

When political authority, even with the best of intentions, interferes with this self-regulating flow of goods and services, it sets up chains of cause and effect which it can neither foresee nor control except by constantly widening its authority. The final outcome is a regimented society from which all objective and valid guides to human effort have vanished, along with human freedom.

—*The Guaranty Survey*, March 1956

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

Why Socialism Causes Pollution

by Thomas J. DiLorenzo

Corporations are often accused of despoiling the environment in their quest for profit. Free enterprise is supposedly incompatible with environmental preservation, so that government regulation is required.

Such thinking is the basis for current proposals to expand environmental regulation greatly. So many new controls have been proposed and enacted that the late economic journalist Warren Brookes once forecast that the U.S. Environmental Protection Agency (EPA) could well become "the most powerful government agency on earth, involved in massive levels of economic, social, scientific, and political spending and interference."[1]

But if the profit motive is the primary cause of pollution, one would not expect to find much pollution in socialist countries, such as the former Soviet Union, China, and in the former Communist countries of Eastern and Central Europe. That is, in theory. In reality exactly the opposite is true: The socialist world suffers from the worst pollution on earth. Could it be that free enterprise is not so incompatible with environmental protection after all?

I. SOCIALIST POLLUTION

The Soviet Union

In the Soviet Union there was a vast body of environmental law and regulation that purportedly protected the public interest, but these constraints have had no perceivable benefit. The Soviet Union, like all socialist countries, suffered from a massive "tragedy of the commons," to borrow the term used by biologist Garrett Hardin in his classic 1968 article.[2] Where property is communally or governmentally owned and treated as a free resource, resources will inevitably be overused with little regard for future consequences.

The Soviet government's imperatives for economic growth, combined with communal ownership of virtually *all* property and resources, caused tremendous environmental damage. According to economist Marshall Goldman, who studied and traveled extensively in the Soviet Union, "The attitude that nature is there to be exploited by man is the very essence of the Soviet production ethic."[3]

A typical example of the environmental damage caused by the Soviet economic system is the exploitation of the Black Sea. To comply with five-year plans for housing and building construction, gravel, sand, and trees around the beaches were used for decades as construction materials. Because there is no private property, "no value is attached to the gravel along the seashore. Since, in effect, it is free, the contractors haul it away."[4] This practice caused massive beach erosion which reduced the Black Sea coast by 50 percent between 1920 and 1960. Eventually, hotels, hospitals, and, of all things, a military sanitarium collapsed into the sea as the shoreline gave way. Frequent landslides—as many as 300 per year—have been reported.

Water pollution is catastrophic. Effluent from a chemical plant killed almost all the fish in the Oka

Dr. DiLorenzo holds the Probasco Chair of Free Enterprise at the University of Tennessee at Chattanooga. *This article is adapted from a larger study published by the Center for the Study of American Business at Washington University in St. Louis and presented at the Mont Pelerin Society meeting in Big Sky, Montana, August 22-26, 1991.*

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

River in 1965, and similar fish kills have occurred in the Volga, Ob, Yenesei, Ural, and Northern Dvina rivers. Most Russian factories discharge their waste without cleaning it at all. Mines, oil wells, and ships freely dump waste and ballast into any available body of water, since it is all one big (and tragic) "commons."

Only six of the 20 main cities in Moldavia had a sewer system by the late 1960s, and only two of those cities made any effort to treat the sewage. Conditions are far more primitive in the countryside.

The Aral and Caspian seas have been gradually disappearing as large quantities of their water have been diverted for irrigation. And since untreated sewage flows into feeder rivers, they are also heavily polluted.

Some Soviet authorities expressed fears that by the turn of the century the Aral Sea will be nothing but a salt marsh. One paper reported that because of the rising salt content of the Aral the remaining fish will rapidly disappear. It was recently revealed that the Aral Sea has shrunk by about a third. Its shore line "is arid desert and the wind blows dry deposits of salt thousands of miles away. The infant mortality rate [in that region] is four to five times the national average."[5]

The declining water level in the Caspian Sea has been catastrophic for its fish population as spawning areas have turned into dry land. The sturgeon population has been so decimated that the Soviets have experimented with producing artificial caviar.

Hundreds of factories and refineries along the Caspian Sea dump untreated waste into the sea, and major cities routinely dump raw sewage. It has been estimated that one-half of all the discharged effluent is carried in the Volga River, which flows into the Caspian Sea. The concentration of oil in the Volga is so great that steamboats are equipped with signs forbidding passengers to toss cigarettes overboard. As might be expected, fish kills along the Volga are a "common calamity."

Lake Baikal, which is believed to be the oldest freshwater lake in the world, is also one of the largest and deepest. It is five times as deep as Lake Superior and contains twice the volume of water. According to Marshall Goldman, it was also "the best known example of the misuse of water resources in the USSR."[6]

Factories and pulp mills have been dumping hundreds of millions of gallons of effluent into Lake Baikal each year for decades. As a result, animal life in the lake has been cut by more than 50 percent over the past half century. Untreated sewage is dumped into virtually all tributaries to the lake.

Islands of alkaline sewage have been observed floating on the lake, including one that was 18 miles long and three miles wide. These "islands" have polluted the air around the lake as well as the water in it. Thousands of acres of forest surrounding the lake have been denuded, causing such erosion that dust storms have been reported. So much forest land in the Lake Baikal region has been destroyed that some observers reported shifting sands that link up with the Gobi Desert; there are fears that the desert may sweep into Siberia and destroy the lake.

In other regions the fact that no compensation has to be paid for land that is flooded by water projects has made it easy for government engineers to submerge large areas of land. "As much land has been lost through flooding and salination as has been added through irrigation and drainage in the Soviet Union."[7]

These examples of environmental degradation in the Soviet Union are not meant to be exhaustive but to illustrate the phenomenon of Communist pollution. As Goldman has observed, the great pollution problems in Russia stem from the fact that the government determined that economic growth was to be pursued at any cost. "Government officials in the USSR generally have a greater willingness to sacrifice their environment than government officials in a society with private enterprise where there is a degree of public accountability. There is virtually a political as well as an economic imperative to devour idle resources in the USSR."[8]

China

In China, as in Russia, putting the government in charge of resource allocation has not had desirable environmental consequences. Information on the state of China's environment is not encouraging.

According to the Worldwatch Institute, more than 90 percent of the trees in the pine forests in China's Sichuan province have died because of air

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

pollution. In Chungking, the biggest city in southwest China, a 4,500-acre forest has been reduced by half. Acid rain has reportedly caused massive crop losses.

There also have been reports of waterworks and landfill projects severely hampering fish migration. Fish breeding was so seriously neglected that fish has largely vanished from the national diet. Depletion of government-owned forests has turned them into deserts, and millions of acres of grazing and farm land have been devastated. Over eight million acres of land in the northern Chinese plains were made alkaline and unproductive during the "Great Leap Forward."

Central and Eastern Europe

With Communism's collapse, word has begun to seep out about Eastern Europe's environmental disasters. According to the United Nations Global Environment Monitoring Program, "pollution in that region is among the worst on the Earth's surface."[9] Jeffrey Leonard of the World Wildlife Fund concluded that "pollution was part and parcel of the system that molested the people [of Eastern Europe] in their daily lives."[10] Evidence is mounting of "an environmental nightmare," the legacy of "decades of industrial development with little or no environmental control."[11]

Poland. According to the Polish Academy of Sciences, "a third of the nation's 38 million people live in areas of ecological disaster."[12] In the heavily industrialized Katowice region of Poland, the people suffer 15 percent more circulatory disease, 30 percent more tumors, and 47 percent more respiratory disease than other Poles. Physicians and scientists believe pollution is a major contributor to these health problems.

Acid rain has so corroded railroad tracks that trains are not allowed to exceed 24 miles an hour. The air is so polluted in Katowice that there are underground "clinics" in uranium mines where the chronically ill can go to breathe clean air.

Continuous pumping of water from coal mines has caused so much land to subside that over 300,000 apartments were destroyed as buildings collapsed. The mine sludge has been pumped into rivers and streams along with untreated sewage which has made 95 percent of the water unfit for human consumption. More than 65 percent of the nation's water is even unfit for industrial use because it is so toxic that it would destroy heavy metals used by industry. In Cracow, Poland's ancient capital, acid rain "dissolved so much of the gold roof of the 16th century Sigismund Chapel that it recently had to be replaced."[13]

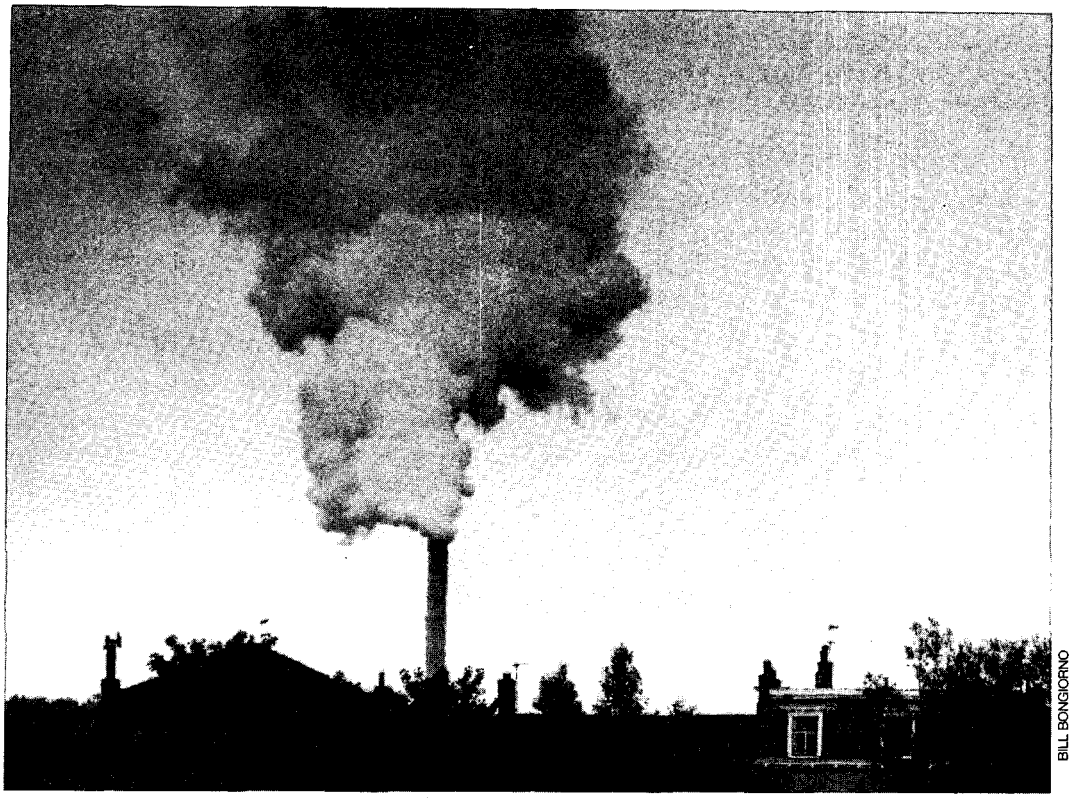
Industrial dust rains down on towns, depositing cadmium, lead, zinc, and iron. The dust is so heavy that huge trucks drive through city streets daily spraying water to reduce it. By some accounts eight tons of dust fall on each square mile in and around Cracow each year. The mayor of Cracow recently stated that the Vistula River—the largest river in Poland—is "nothing but a sewage canal."[14] The river has mercury levels that are three times what researchers say is safe, while lead levels are 25 times higher than deemed safe.

Half of Poland's cities, including Warsaw, don't even treat their wastes, and 41 animal species have reportedly become extinct in Poland in recent years. While health statistics are spotty—they were not a priority of the Communist government—available data are alarming. A recent study of the Katowice region found that 21 percent of the children up to 4 years old are sick almost constantly, while 41 percent of the children under 6 have serious health problems.

Life expectancy for men is lower than it was 20 years ago. In Upper Silesia, which is considered one of the most heavily industrialized regions in the world, circulatory disease levels are 15 percent higher than in the general population, cancer rates are 30 percent higher, respiratory disease is 47 percent higher, and there has been "an appalling increase in the number of retarded children," according to the Polish Academy of Sciences. Although pollution cannot be blamed for all these health problems, physicians and scientists attach much of the blame to this source.

Czechoslovakia. In a speech given on New Year's Day of 1990, Czechoslovakian President Vaclav Havel said, "We have laid waste to our soil and the rivers and the forests . . . and we have the worst environment in the whole of Europe today."[15] He was not exaggerating, although the competition for the title of "worst environment" is clearly fierce. Sulfur dioxide concentrations in Czechoslovakia are eight times higher than in the United States, and "half the forests are dead or dying."[16]

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED



BILL BONGIORNO

Pollution, eastern Germany.

Because of the overuse of fertilizers, farmland in some areas of Czechoslovakia is toxic to more than one foot in depth. In Bohemia, in northwestern Czechoslovakia, hills stand bare because their vegetation has died in air so foul it can be tasted. One report describes the Czech countryside as a place where "barren plateaus stretch for miles, studded with the stumps and skeletons of pine trees. Under the snow lie thousands of acres of poisoned ground, where for centuries thick forests had grown."[17] There is a stretch of over 350 miles where more than 300,000 acres of forest have disappeared and the remaining trees are dying.

A thick, brown haze hangs over much of northern Czechoslovakia for about eight months of the year. Sometimes it takes on the sting of tear gas, according to local officials. There are environmental laws, but they aren't enforced. Sulfur in the air has been reported at 20 times the permissible level. Soil in some regions is so acidic that aluminum trapped in the clay is released. Scientists discovered that the aluminum has poisoned groundwater, killing tree and plant roots and filtering into the drinking water.

Severe erosion in the decimated forests has caused spring floods in which all the melted snow cascades down mountainsides in a few weeks, causing further erosion and leading to water shortages in the summer.

In its search for coal, the Communist government has used bulldozers on such a massive scale that they have "turned towns, farms and woodlands into coarse brown deserts and gaping hollows."[18] Because open-pit mining is cheaper than underground mining, and has been practiced extensively, in some areas of Czechoslovakia "you have total devastation of the land."[19]

East Germany. The new German government has claimed that nearly 40 percent of the East German populace suffers ill effects from pollutants in the air. In Leipzig, half the children are treated each year for illnesses believed to be associated with air pollution.

Eighty percent of eastern Germany's surface waters are classified as unsuitable for fishing, sports, or drinking, and one out of three lakes has been declared biologically dead because of decades of untreated dumping of chemical waste.

Much of the East German landscape has been

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

devastated. Fifteen to 20 percent of its forests are dead, and another 40 percent are said to be dying. Between 1960 and 1980 at least 70 villages were destroyed and their inhabitants uprooted by the government, which wanted to mine high-sulfur brown coal. The countryside is now "pitted with moon-like craters" and "laced with the remains of what were once spruce and pine trees, nestled amid clouds of rancid smog."[20] The air in some cities is so polluted that residents use their car headlights during the day, and visitors have been known to vomit from breathing the air.

Nearly identical problems exist in Bulgaria, Hungary, Romania, and Yugoslavia. Visiting scientists have concluded that pollution in Central and Eastern Europe "is more dangerous and widespread than anything they have seen in the Western industrial nations."[21]

II. UNITED STATES: PUBLIC SECTOR POLLUTION

The last refuge of those who advocate socialistic solutions to environmental pollution is the claim that it is the lack of democratic processes that prevents the Communist nations from truly serving the public interest. If this theory is correct, then the public sector of an established democracy such as the United States should be one of the best examples of environmental responsibility. But U.S. government agencies are among the most cavalier when it comes to environmental stewardship.

There is much evidence to dispute the theory that only private businesses pollute. In the United States, we need look no further than our own government agencies. These public sector institutions, such as the Department of Defense (DOD), are among the worst offenders. DOD now generates more than 400,000 tons of hazardous waste a year—more than is produced by the five largest chemical companies combined. To make matters worse, the Environmental Protection Agency lacks the enforcement power over the public sector that it possesses over the private sector.

The lax situation uncovered by the General Accounting Office (GAO) at Tinker Air Force Base in Oklahoma is typical of the way in which many Federal agencies respond to the EPA's directives. "Although DOD policy calls for the military services to . . . implement EPA's hazardous waste management regulations, we found that Tinker has been selling . . . waste oil, fuels, and solvents rather than recycling," reported the GAO.[22]

One of the world's most poisonous spots lies about 10 miles northeast of Denver in the Army's Rocky Mountain Arsenal. Nerve gas, mustard shells, the anti-crop spray TX, and incendiary devices have been dumped into pits there over the past 40 years. Dealing with only one "basin" of this dump cost $40 million. Six hundred thousand cubic yards of contaminated soil and sludge had to be scraped and entombed in a 16-acre, double-lined waste pile.

There are plenty of other examples of Defense Department facilities that need major cleanup. In fact, total costs of a long-term Pentagon cleanup are hard to get a handle on. Some officials have conceded that the price tag could eventually exceed $20 billion.

Government-owned power plants are another example of public-sector pollution. These plants are a large source of sulfur dioxide emissions.

The federal government's Tennessee Valley Authority operates 59 coal-fired power plants in the Southeast, where it has had major legal confrontations with state governments who want the Federal agency to comply with state environmental regulations. The TVA has fought the state governments for years over compliance with their clean air standards. It won a major Supreme Court victory when the Court ruled that, as a federal government enterprise, it could be exempt from environmental regulations with which private sector and local governmental power plants must comply.

Federal agricultural policy also has been a large source of pollution, in the past encouraging overutilization of land subject to erosion. Powerful farm lobbies have protected "non-point" sources of pollution from the heavy hand of regulation placed on other private industries.

III. POLICY IMPLICATIONS

These examples of environmental degradation throughout the world suggest some valuable lessons. First, it is not free enterprise per se that causes environmental harm; if so, the socialist world would be environmentally pristine.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

The heart of the problem lies with the failure of our legal institutions, not the free enterprise system. Specifically, American laws were weakened more than a century ago by Progressive Era courts that believed economic progress was in the public interest and should therefore supersede individual rights.[23]

The English common law tradition of the protection of private property rights—including the right to be free from pollution—was slowly overturned. In other words, many environmental problems are not caused by "market failure" but by government's failure to enforce property rights. It is a travesty of justice when downstream residents, for example, cannot hold an upstream polluter responsible for damaging their properties. The common law tradition must be revived if we are to enjoy a healthy market economy and a cleaner environment. Potential polluters must know in advance that they will be held responsible for their actions.

The second lesson is that the plundering of the environment in the socialist world is a grand example of the tragedy of the commons. Under communal property ownership, where no one owns or is responsible for a natural resource, the inclination is for each individual to abuse or deplete the resource before someone else does. Common examples of this "tragedy" are how people litter public streets and parks much more than their own yards; private housing is much better maintained than public housing projects; cattle ranchers overgraze public lands but maintain lush pastures on their own property; the national forests are carelessly over-logged, but private forests are carefully managed and reforested by lumber companies with "super trees"; and game fish are habitually overfished in public waterways but thrive in private lakes and streams. The tragedy of the commons is a lesson for those who believe that further nationalization and governmental control of natural resources is a solution to our environmental problems.

These two pillars of free enterprise—sound liability laws that hold people responsible for their actions and the enforcement of private property rights—are important stepping stones to environmental protection. □

1. Personal interview with Warren Brookes on April 16, 1990.
2. Garrett Hardin, "The Tragedy of the Commons," *Science*, December 13, 1968, pp. 1244-45.
3. Marshall Goldman, *The Spoils of Progress: Environmental Pollution in the Soviet Union* (Cambridge: MIT Press, 1972), p. 66.
4. *Ibid.*, p. 162.
5. Peter Gumbel, "Soviet Concerns About Pollution Danger Are Allowed to Emerge from the Closet," *The Wall Street Journal*, August 23, 1988.
6. Goldman, p. 225.
7. *Ibid.*, p. 232.
8. *Ibid.*, p. 188.
9. Cited in Larry Tye, "Pollution a Nightmare Behind Iron Curtain," *The Arizona Republic*, February 25, 1990.
10. Cited in Mike Feinsilber, "Eastern Europe Fighting Worst Pollution in World," *The Chattanooga Times*, January 17, 1990.
11. Tye, *op. cit.*
12. Marlise Simons, "Rising Iron Curtain Exposes Haunting Veil of Polluted Air," *The New York Times*, April 8, 1990.
13. Lloyd Timberlake, "Poland—The Most Polluted Country in the World?" *New Scientist*, October 22, 1981, p. 249.
14. Marlise Simons, "A Green Party Mayor Takes on Industrial Filth of Old Cracow," *The New York Times*, March 25, 1990.
15. Feinsilber, *op. cit.*
16. Tye, *op. cit.*
17. Marlise Simons, "Pollution's Toll in Eastern Europe: Stumps Where Great Trees Once Grew," *The New York Times*, March 19, 1990.
18. Marlise Simons, "Central Europe's Grimy Coal Belt: Progress, Yes, But at What Cost?" *The New York Times*, April 1, 1990.
19. *Ibid.*
20. Jeffrey Gedmin, "Polluted East Germany," *Christian Science Monitor*, March 16, 1990.
21. Simons, "Rising Iron Curtain."
22. Comptroller General, *Wastepaper Recycling: Programs of Civil Agencies Waned During the 1980s* (Washington, D.C.: General Accounting Office, 1989), p. 13.
23. Morton J. Horwitz, *The Transformation of American Law, 1780-1860* (Cambridge: Harvard University Press, 1977).

IDEAS ON LIBERTY

Who Conserves Our Resources?

There is no effective method of determining the economic requirements of the people when the free market is not allowed to reflect them, nor can force solve the problem of conservation. It is a false panacea that is centuries old, advocated by those who desire power over others whom they neither trust nor respect.

—Ruth Shallcross Maynard

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

Why Perestroika Failed

by Peter J. Boettke

When Mikhail Gorbachev came to power in 1985, he inherited a political and economic mess. The Novosibirsk report prepared by Soviet sociologist Tatyana Zaslavskaya, published in the West in the spring of 1984, already had revealed the deep structural problems confronting the Soviet leadership. The years of Communist rule had choked the economy—stifling innovation and destroying initiative—and produced political cynicism born of overt corruption of the ruling elite. Gorbachev knew full well the extent of the situation he inherited.

But after six years in power and despite much talk about renewal and restructuring, the economy is worse off and the Soviet Union no longer exists as a political entity. As a program of economic restructuring, perestroika must be judged as an utter failure. Glasnost to be sure produced a political and cultural awakening of sorts unknown during the 74 years of Communist rule, but perestroika failed to deliver the economic goods. Why?

One of the main reasons perestroika failed was because it wasn't tried. During his six years in power, Gorbachev introduced at least 10 programs for the "radical restructuring" of the Soviet economy, not a one of which was implemented. Instead, economic reform was limited to inconsistent and incoherent half-measures. The law on individual economic activity, the law on state enterprises, and the various price-reform proposals, for example, amounted to nothing more than half-measures incapable of producing the desired economic results even if they were implemented in an ideal environment.

Conceptually, economic reform is a fairly simple matter. Private property in resources must be established and protected by a rule of law; consumer and producer subsidies must be eliminated; prices must be freed to adjust to the forces of supply and demand; responsible fiscal policy should be pursued that keeps taxation to a minimum and reins in deficit financing; and a sound currency must be established. Introducing such reforms—even within Western economies—is anything but simple. And the major problem is not just a conceptual one of designing the appropriate sequence or plan of reform.

One of the most important insights derived from academic research in modern political economy is the potential conflict between good economics and good politics. In democratic regimes, where politicians depend on votes and campaign contributions to remain in office, research has shown that the logic of politics produces a shortsightedness with regard to economic policy. Popular economic policies are those that tend to yield short-term and easily identifiable benefits at the expense of long-term and largely hidden costs. Deficit financing and inflationary monetary policy are but two examples from Western economies.

In the formerly Communist political economies, this argument about the logic of politics can be intensified. The benefits of public policy fell mainly on the only constituency that mattered: the party bureaucracy. From the nice dacha to special access to stores, the party elite were the primary beneficiaries of the system. Economic reform

Peter J. Boettke is an assistant professor of economics at New York University and the author of The Political Economy of Soviet Socialism *(Kluwer, 1990).*

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

promised to disrupt this system and yield very real short-term costs.

If market reforms had been introduced sincerely by Gorbachev, the short-term prospects would have been higher prices as consumer subsidies were eliminated, unemployment as inefficient state enterprises were shut down, and overt income inequality as new entrepreneurs took advantage of opportunities for economic profit. In other words, structural economic reform promised short-term and easily identifiable costs to be borne mainly by the party bureaucracy, and long-term and largely hidden benefits in terms of increased economic efficiency and consumer well-being. The logic of reform was in direct conflict with the logic of politics, and politics won out.

Economic Reality Prevails

Even though the ruling elite fought economic reform at every step, they could not repudiate economic reality. The Soviet economy had exhausted its accumulated surplus in terms of natural resources and Western technology and was unable to continue to develop. The economic situation grew worse under Gorbachev, and the demands for structural reform grew louder and more threatening to the old system. Glasnost, in addition to the events of 1989—from Tiananmen Square to the Berlin Wall—mobilized the intellectual and cultural elite. As a Russian saying went, "We are still on the leash and the dog dish is still too far away, but now we can bark as loud as we want."

The failed August 1991 coup was the last gasp of the main beneficiaries of Soviet rule: the privileged apparatchiks and ruling elite. For 60 hours the world first shuddered, then gasped as the coup unraveled, and finally cheered as the ordeal ended. But the coup was a precondition for the beginning of real reform of the system. Otherwise, the party bureaucracy would still have held a degree of legitimacy and power that no longer exists. The displacement of dominant interest groups, as Mancur Olson argued in his *Rise and Decline of Nations*, is a prerequisite for systemic political and economic reform.

The paradox of government, as James Madison so eloquently pointed out, is that a workable constitution must first empower the institution of governance with the ability to govern its citizens, and then force it to govern itself. As the leaders of the former Soviet republics debate their future economic and political ties and the legal frameworks that will govern their societies, they must bear in mind the most important lesson of the 74-year history of Soviet Communism—when politics is allowed to dominate economics as an organizing principle, political and economic irrationality result.

A workable constitution must protect against unwarranted political intrusions (even in the name of democracy) into the operation of economic forces. The law must establish "rules of the game" that protect the economic freedom of the people. Only in this manner can hope and prosperity come to a people who have been blessed with natural resources, but who have lived with the curse—first under the czars and then under the Communists—of bad rules that failed to restrain the political whims of the ruling elite. □

Coming Next Month . . .

- **"How Many Laws Are Enough?" by James L. Payne**
- **"Kafka's Bureaucratic Nightmares" by Jack Matthews**
- **"The Mythology of State Spending" by John Hood**

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

Czechoslovakia on the Hudson

by Robert Zimmerman

The invitation from friends in Prague finally ended many years of procrastination. "Come! We will put you up, show you our country." It was an offer I couldn't turn down. I packed my bags, and off I went to the formerly Communist country of Czechoslovakia. What could be more different from New York City?

Imagine my surprise when I discovered that, of all places, Czechoslovakia reminded me most of my hometown of New York.

The first night I stayed in Sazava, a small town 60 miles from Prague. My friend, nicknamed "Buffalo," had an apartment in an abandoned monastery. Outside, the building was drab and appeared poorly maintained. Inside, the apartment was sophisticated and elegant, large enough with its high ceilings and wood floors for Buffalo to fix it up.

I suddenly felt as if I weren't in Czechoslovakia, but in a renovated Manhattan loft! As in a loft, because the original architecture was intended for other purposes, Buffalo's quarters were spacious and made for a nice apartment.

In the city of Brno, we walked along what once had been a major shopping avenue, then we turned into a side street to find the home of another of my hosts. The shopping avenue was quiet and mostly empty. Many storefronts were boarded up, and those that were open were doing little business. The side street was lined with the dilapidated facades of tenements. I kept thinking of the South Bronx and other poor areas of New York, where the shopping districts are abandoned, storefronts are covered, and the tenements are crumbling.

After hiking for several days in the backwoods of Moravia, we returned to the outskirts of Prague, where we stayed in the home of Denny, Hannah, and their three children. As with most buildings in Czechoslovakia, the outside was rundown. The Communists had subdivided the house into four small apartments, so Denny and Hannah's two-bedroom apartment was cramped. Since they didn't own the apartment, gained no benefit if they improved it, and paid a ridiculously low rent set by the government, they suffered things as they were, praying that the government might someday heed their requests for maintenance.

It was just like a typical Manhattan tenement! Rent control makes the building unprofitable, and neither the tenants nor the landlord performs any maintenance.

For two days I visited lovely Prague. The Vltava River winds its way through the city. On the east is the Oldtown Square; on the west is Prague Castle. Crossing the river is the Charles Bridge, a pedestrian walkway filled with vendors, performers, and tourists. This is the center of the city's street life.

Statues of famous people line the stone railing on each side of the bridge. The statues are black with soot and dirt, but the Communist government, instead of cleaning them, painted the better-looking ones black so they would match.

Mr. Zimmerman is a feature film producer in New York City.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

ROBERT ZIMMERMAN

Vendors, Charles Bridge, Prague.

Gee, I thought, just like New York. In the 1980s the city government painted fake window shades and plants on the bricked-up windows of abandoned buildings, trying to hide its failure to renovate these crumbling structures.

As we strolled through the city, thousands of people crowded the streets. Vendors and street performers were everywhere; the action went on late into the night. Yet most buildings were shut, and there were few bars, restaurants, or nightclubs. The entertainment and commerce were on the street.

I thought of the 2nd Avenue flea market in Manhattan's Lower East Side, where the stores are often closed or abandoned, and the sidewalks stay crowded with hundreds of vendors. There is one difference: In New York you are accosted by people asking for change; in Prague you are accosted by people asking you to change money.

On my last day in Czechoslovakia we stopped off for a few hours in Plsen. Many buildings in the town center had been abandoned, apparently for a long time. Less than three blocks from the main square we saw several empty lots overgrown with trees. One empty building had holes in the roof and rusty scaffolding around it.

I had been told by Czechs that World War II damage still can be seen in some cities. I found this implausible, until I visited Plsen. If the empty lots and damaged buildings were not left over from World War II, they had been there for at least several decades.

I have seen such abandoned buildings in only one other place. You guessed it. In New York City valuable buildings are often left to decay, sometimes for decades.

Similarities and Differences

Not everything I saw in Czechoslovakia reminded me of New York. For example, it wasn't easy to find a restaurant. In Prague we walked for almost 40 minutes to find a place to eat lunch. The restaurants were either full, too expensive, closed, or too far away.

Yet I was disturbed by what I found in common. The connecting thread is that real estate in both Czechoslovakia and New York is controlled by the government, either by regulation or direct ownership.

Why did Prague look like the East Village, with street vendors and boarded-up storefronts? Now

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

ROBERT ZIMMERMAN

Vendors, Washington Square Park, New York City.

that Czechs are free to start their own businesses, they are quick to do so. Unfortunately, the new government still controls all real estate, and so the only place to open a shop is on the sidewalk. In New York, licenses, regulations, and building codes raise the cost of real estate so much that a poor person can't afford to set up shop legally. It's easier to open a table and sell books.

Why do buildings in New York and Plsen remain unused for decades? The same laws, taxes, and regulations that discourage new businesses in New York have destroyed many old businesses. The city takes over the real estate, and we have the government as landlord, just as in a Communist country. And as in Czechoslovakia, the government cannot do the job. It would rather paint fake repairs than fix things.

And, finally, why did Czechoslovakian homes remind me of the living quarters New Yorkers have to deal with? New York has rent control, strict zoning laws, and complicated building codes. Czechoslovakia has total government ownership of real estate. Both remove freedom of choice from the citizenry, and both distort the real estate market. People have to improvise unorthodox ways to live, or tolerate miserable ones.

Hence, people move into unlikely places (a factory loft, an abandoned monastery), getting around government restrictions as best they can. Or, worse, they live in overcrowded apartments in badly maintained buildings because rent controls have created housing shortages.

There is, however, a major difference between Czechoslovakia and New York. In Czechoslovakia I sensed an enormous optimism and pride. These are people who know what was wrong with their society for the last 40 years, had no control over it until the Velvet Revolution in 1989, and now are freely working to bring about change. Slowly, they are returning the land to private hands.

Upon returning to New York, I realized that things are different here. Since the 1940s, the city has grown more and more socialistic. Even with municipal bankruptcies, a failed school system, unsafe and inefficient mass transit, stifling taxes, and a legal structure that strangles old and new businesses alike, there is still no Velvet Revolution in New York City. As I said to my Czech friends: "It seems we have both been cursed with a Communist government. *You,* however, haven't been stupid enough to keep voting for it." □

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

Human Rights, Animal Rights, and Friends of the Earth

by Sylvester Petro

For some human beings, the urge to move from one state of being to another expresses itself in turning over; for others, in productive activity. The first of these responses to uneasiness is normally neutral, from the point of view of social welfare; the second, either neutral, or, in the case of production for exchange, a contribution to society. We may for convenience call both "Friends of the Earth," to coin a phrase. They do no one any harm and may even do some good.

For still another class of human beings, the response to uneasiness, the desire for some *je ne sais quoi*, is categorically different. It expresses itself in aggression: physical assault, theft, domination. There are also (at least) two varieties of aggression: overt and covert, violence or fraud, work-the-con-yourself or get-the-legislature-to-do-it-for-you-while-pretending-to-serve-the-common-good.

The covertly aggressive spirit is widespread among human beings. There is a little larceny in all of us, it is said. In consequence whereof the wrongheadedness of our governments, and especially of the Congress of the United States, is an across-the-board phenomenon. Yet, nowhere is the clash between government and society more odious and insidious than in the Endangered Species Act. This Act provides for the expropriation, sequestration, or in some cases confiscation of property if its normal human use would risk the extinction of an "endangered species."

Thus, in the news recently we read that the government has banned logging for human purposes of thousands of forested acres, in order to save the spotted owl, allegedly because it faces extinction. Again, the U.S. Fish and Wildlife Service is proposing to prevent developers from building houses (for human residence) on miles of California coast because the California coastal gnatcatcher fancies it as a hunting ground and might just possibly become extinct if the builders try to alleviate housing conditions for human beings on that stretch of land.

And then there is the cataclysmic case of the kangaroo rat. As reported in a *Wall Street Journal* editorial (September 4, 1991), "The Stevens kangaroo rat recently became one of the largest 'landowners' in California when a 30-square-mile stretch of land worth $100 million was declared off-limits to development in order to protect the rat."

The editorial continues: "Nancy Kaufman, a Fish and Wildlife Service official, defended the move by saying that humans have reached the limit on how far they can intrude on the environment. We guess that means a lot of people in the future will have to double up in apartments Soviet-style. Ms. Kaufman isn't all that concerned about human habitats: 'I'm not required by law to analyze the housing-price aspect for the average Californian.'"

Mr. Petro is Director of The Institute for Law and Policy Analysis, Winston-Salem, North Carolina, and Trustee Emeritus of FEE.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

But what of the loss of $100 million in land to Californians who already pay more for housing than just about anyone else in the country?

"The Rights of Animals"

The Endangered Species Act is advanced and defended on one or another version of the contention that "animals, too, have rights." This notion is supposed to justify the enormous costs and other burdens that the environmental and ecological programs impose, especially on the poor and the underprivileged—the people for whom, unlike most of the members of the Sierra Club and the Audubon Society, pennies count.

Making *any kind* of sense of the animal-rights idea—moral, social, economic, or juridical—is impossible.

After all is said and done, animals are not and cannot be parties in any intelligible sense in these affairs. Animals are physically capable of doing many kinds of harm to human beings, but they are incapable of expropriating them. Human beings can be expropriated only by other human beings. In the Endangered Species Act as administered by such secure human beings as Ms. Kaufman, what we have is environmentalist zealots imposing their will, by way of a perverted government, on the rest of the people. It may not be common theft, but that is only because it is so uncommon an enormity, resting on one of the deadliest beliefs of our times, the belief that paper laws *legitimize* theft.

It is true that our legislatures are elected and that the laws they pass, when constitutionally valid, are binding on the people. At the extreme limits, however, the power of Congress extends only to laws that provide for the general welfare, and the notion that the term "general welfare" in the Preamble of the Constitution of the United States includes the welfare of endangered wild animals is absurd. Endorsement by the Supreme Court of unconstitutional legislation, I would add, does not change the Constitution. The Constitution is not whatever the Supreme Court may choose to say it is. There is a constitutionally dictated amendment process which does not include amendment by the Supreme Court at all, or even by Congress merely by legislation.

The analysis doesn't change if we engage the anomaly, "animal rights," in serious legal analysis, instead of dismissing it out-of-hand as a theft and a fraud, a scam by the idle rich and the idle well-to-do in order to preserve the earth as a plaything, a place to dally in. We must insist at the outset, however, that it is an anomaly. For wild animals do and can do nothing to create the entitlements called moral, juridical, or social rights. Rational exchange with them is out of the question. They are "free spirits"—or, better yet, *free loaders*, moochers on Mother Nature's generosity and on the virtuous laboriousness of the only children who have ever reciprocated the generosity of the divine Earth-Mother—human beings.

Wild animals exploit the earth, love it and leave it, despoil and befoul it. That is all they have ever done, eon after eon, and all they will ever do—unchanging, unceasing exploitation. Beavers build dams, chopping down trees to do so. But has anyone ever seen a beaver *plant* a tree? Weyerhaeuser plants dozens for every one it cuts. I have planted quite a few myself, by the way.

Wild animals can never earn rights, but human beings can. If my neighbor takes my land or tries to force me to do with it what he wants rather than what I want, I can go to a court of equity and get an injunction to stop his encroachment on my rights. He and I both have duties vis-à-vis each other, as well as rights. He can enjoin me from using my land in a way that denies him the normal use of his land, as I have the power to do conversely. The great formula of Roman law, *sic utere tuo ut alienum non laedas*, [use your own property in such a manner as not to injure that of another] rules in inter-human disputes. But no court will help me when rabbits nibble my lettuce, birds punch holes in my tomatoes just as they ripen, and huge, ugly ants do away with my figs before I can enjoy the fruits of my efforts.

On what rational grounds, then, can people talk about "animal rights"? And yet there is such crazy talk. No wonder we put businessmen in jail while we turn thieves and crooks loose because they are "victims of society." The same twisted logic is at work there.

I know that some human beings have been pure exploiters in some of their relationships with the good earth, mother of us all. However, the wanton exploitation we all deplore has occurred mainly in primitive pre-capitalist society and conditions. Over time, as man has advanced along with the growth of private property rights, of capitalism,

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

and of free markets, human beings have tended more and more to care for the land, to coddle, even to embellish it. It is not mere legalese which describes home, barn, and fence as real property "improvement."

Fanatical environmentalists and hypochondriacal ecology zealots (ecocondriacs?) do their fellowmen a grave injustice in accusing them of maltreatment of the earth, and they are profoundly stupid and insensitive in failing to understand that the best friend the environment has ever had has been the right of private property. Property owners tend to be careful about their property.

If the so-called environmentalists were acting in good faith and had any sense, they would be pushing for the sale of all public property, national forests and parks included, to private parties. The national debt would be reduced a little, and Mother Earth would mate with constant lovers instead of being tied up by bureaucrats and forced into one-night stands with the frivolous. It would make an honest woman of her.

All the days and years of our lives, all the periods of human history, have been peculiar and unique; but surely these times are more so. The other day Mikhail Gorbachev and Boris Yeltsin were on television, telling us how terribly tragic the 70 years of Communism have been. The essence of that tragedy lay in Communism's negation of the basic human right, the right of private property. And yet, while reformed Communists are lamenting that negation, our governments and our ecocondriacs keep erasing more property rights day by day and year by year.

Sooner or later, if we don't do something about our progressively destructive legislatures and bureaucrats, there will be no more left of that mother of all rights, the right of private property, in the United States than there was in the Soviet Union. There will be no rights at all, let alone animal rights. And Mother Nature will be saddened, with no one to love and cherish her, for love of nature is as exclusively human as reason is, and they both do best where the right of private property orders human affairs. □

A Species Worth Preserving

by John Kell

What if you broke your leg in a tumble from a hammock? Would your pain and inconvenience be any less if you learned that few people break their legs this way? Probably not. You feel pain as an individual; knowing that total human suffering has increased only a tiny bit won't make you feel better.

Whether a broken leg is a major event depends on your perspective: Do you look at how it affects the individual or how it affects the collective? Public policies also can be examined from these perspectives.

For example, many environmentalists want wolves to be reintroduced to Yellowstone and Glacier National Parks, which are within the animal's historical range. Many ranchers oppose the idea because they fear that wolves will kill their livestock. Some environmentalists counter with the argument that wolves will kill less than 1 percent of the livestock in the affected area.

A fraction of 1 percent may seem small, and ranching as an industry wouldn't be greatly affect-

Mr. Kell is a biologist and writer living in Blacksburg, Virginia.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

ed, but the income of a particular rancher could be seriously impacted. If a rancher lost a few head of cattle to a wolf, it would comfort him little to know that those were the only livestock killed by wolves in the whole state that year.

When environmentalists argue that wolves would have little impact on the livestock industry, they are thinking of the industry as a whole and not of individual ranchers. The rancher, on the other hand, is thinking about his particular herd and income. One is thinking collectively, the other individually, and each wonders how the other can be so unfeeling and irrational.

Is there any way these groups can come to view the problem from a common ground? What if environmentalists try to understand how wolves affect individual ranchers, and offer to compensate those who lose animals to wolves? This might help ranchers feel less threatened by the reintroduction of wolves.

Such a solution is being used by Defenders of Wildlife, an environmental group trying to reduce opposition to the reintroduction of wolves in Montana. They raised a $100,000 compensation fund through donations, a benefit concert by James Taylor, and sales of a print featuring a family of wolves above a geyser basin in Yellowstone.

Defenders of Wildlife has paid $11,000 in compensation since 1987. These didn't involve kills by reintroduced wolves, but were caused by a population that started naturally when wolves moved into Montana from Canada in 1979. Even so, Defenders of Wildlife felt the payments were needed to check the spread of an anti-wolf mentality.

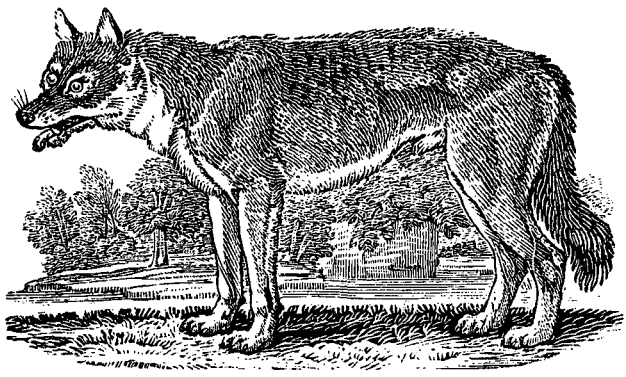
Defenders of Wildlife hopes that the fund will be enough to run the program for 10 years. By that time they hope the wolf population will be large enough so the species can be removed from endangered status; shooting of problem wolves by animal control officers would then be permitted.

This isn't the first time that conservationists have turned to private funding to protect the environment. Ducks Unlimited, The Nature Conservancy, and Trout Unlimited have been buying habitat for years. But only recently have environmental organizations assumed financial responsibility for the actions of wild animals. The Great Bear Foundation in Montana started a program in 1985 to compensate ranchers for stock killed by grizzlies.

Like an insurance company, Defenders of Wildlife doesn't want to pay out more than it must, so they are educating ranchers to reduce the risks of losing livestock. They even bought a guard dog for one rancher who had lost cattle.

Environmentalists in other parts of the country are considering similar compensation programs. In the American Southwest, there are plans to restore the Mexican wolf. Conservationists have formed several coalitions and are trying to win public support for the reintroduction. Terry Johnson of the Arizona Game and Fish Department says: "A compensation fund is crucial to Mexican wolf reintroduction. Without it there is no hope for support or even neutrality from the ranching community."

Wolves seem to generate more animosity than the other large predators—grizzlies, mountain lions, and black bears—that run wild in Montana. The reintroduction of wolves is still opposed by many, and their future in Yellowstone is uncertain. One thing *is* certain. Environmentalists who are willing to bear the costs of their actions are a species worth preserving. □



LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

Sports: The Great American Surrogate

by Donald G. Smith

There are many who trace the birth of big government to Franklin Roosevelt. While there is some merit in this, serious investigation will prove that the New Dealers were pikers when it comes to all-pervading, suffocating, nose-in-your-business big government.

The real monster was born in 1953 with the Department of Health, Education, and Welfare, now Health and Human Services. HEW turned out to be a masterpiece of unwieldy bureaucracy that would grow to more than 100,000 employees and yield the Department of Education as a spinoff, like something to do on a slow day.

We have now completed nearly four decades of *really* big government, and it is clear that we are no better off for it. It is interesting, though, to note the parallel course of organized sports in this period. As the federal government has expanded, we have also seen the sports explosion: domed stadiums, Monday Night Football, seven-figure salaries, huge signing bonuses, and incredible television contracts. While federal, state, and local governments have been regulating just about every aspect of everyday life, the sports industry has grown to enormous size.

In baseball we saw the first two-million attendance figure in Milwaukee in 1954, followed by three more years in which this figure was reached. It was finally topped by the Los Angeles Dodgers, who eventually passed the three-million mark and then set a record of 3,600,000 in 1982. Major league baseball has expanded from 16 to 26 teams—soon to be 28—and only four of the pre-1953 stadiums are essentially as they were. The rest are either new or have been extensively remodeled.

Professional basketball was really born during this period, although it dates back to 1898. It was, however, a game played in high school gyms and National Guard armories until after World War II, when two leagues merged to form the NBA. The sport would soon feature the highest paid athletes in the world and present them in the Forums, Omnis, and Spectrums of today.

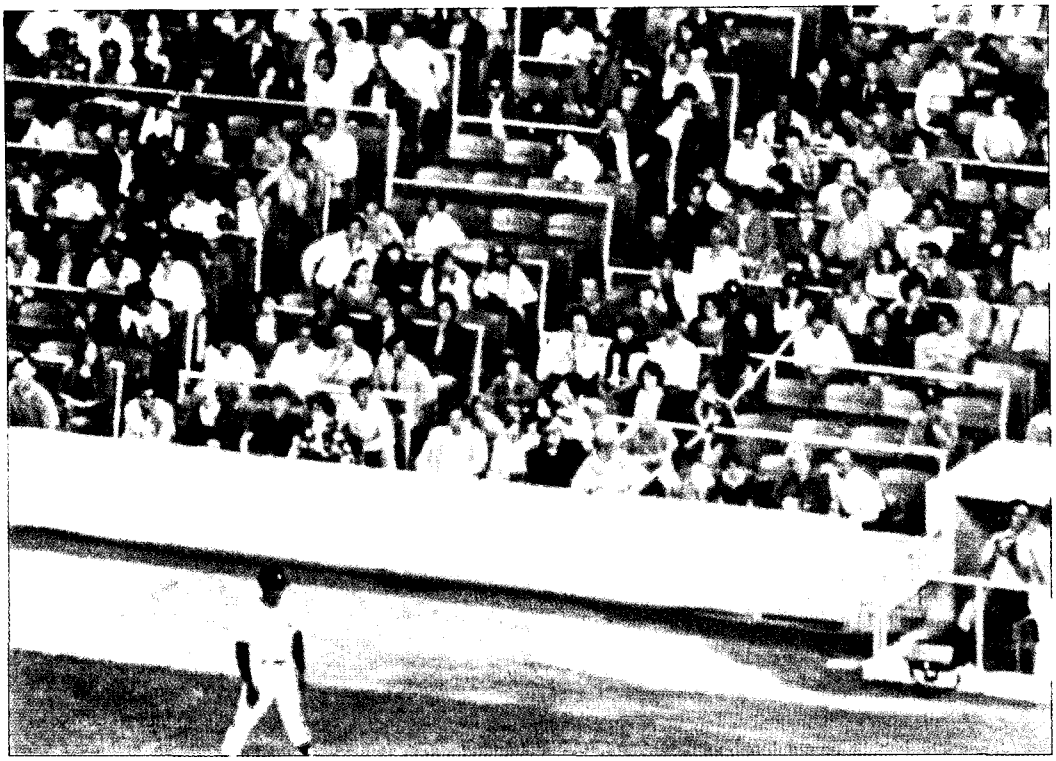
College football, already a force to be reckoned with, has shown phenomenal growth during this time, and more than twice the number of schools are fielding teams as in the "golden age" of Thorpe and Grange. It is playing before packed stadiums every week. The same is true in professional football, with the Super Bowl being the top television attraction of the year.

All of this has happened since the formation of HEW and its attendant big government. The parallel just cannot be ignored. Is there a connection? I think so, and the logic is that success invariably follows need. It is a simple truism that the better mousetrap is bought by people whose old traps aren't doing the job.

With sports we see a definite need fulfilled. In another time, but well within the memory of middle-aged people, business was conducted by certain rules, unwritten but well understood. There was a system of rewards and punishments that benefited the industrious and worked to the detriment of the indolent. There was a way of doing things that was known and accepted, even by the losers. Now all this has been swept away in a big, mushy world of affirmative action, OSHA,

Mr. Smith, a frequent contributor to The Freeman, *lives in Santa Maria, California.*

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED



DOVER BOOKS

discrimination suits, and protests for every conceivable cause. While never black and white, a onetime world of easily distinguishable dark and light grays is now a mélange of smoky middle-gray, where good isn't really all that good and bad isn't really bad at all, just misunderstood.

This is where sports enters the picture with something that we understand, represented by two teams competing under the same rules and resulting in a winner and a loser. It gives us back our dark and light grays. Anyone who has spent a frustrating day trying to cope with a mountain of regulations can come home, turn on the television set, and see something that is clear-cut and understandable: honest, straight-on competition.

First, he sees a team in which the coach or manager is allowed to play his best people. No one starts because he came from a broken home, nor are there any rules requiring representation by sex, race, or place of birth. This alone can be enormously satisfying after a day in the business world.

In sports we see clear and easily understood rewards and punishments. Grab a face mask and you are penalized; carry the ball over the goal line and you get a touchdown. A player can run as fast, jump as high, and throw as far as human limitations will allow, and there is no one to bring him down to the level of those who aren't as good. People are free to excel.

We also see a true evaluation of worth. A .300 batting average says something. No one gets extra points for growing up in a tough neighborhood. Statistics are a record of performance. Twenty wins tells us that a man can pitch, and forty homers says that he has power. He is paid accordingly, and everyone understands why one player makes more than another.

The simple truth is that organized sports fills a need in the American competitive psyche that is lacking in the business world. What government has taken away, the Yankees, Bears, and Lakers have put back. We are a people who want to see good work rewarded, transgressions punished, and books balanced. We have turned to sports to find these things. It is a world that people understand and a world that people want. A touchdown is a touchdown, a home run is a home run, and a slam dunk is two points for the slammer.

Sports is our substitute, a surrogate for the world we lost when someone decided that the Department of Health, Education, and Welfare was a good idea. Athletic competition has become a replacement for the world we once knew and that many of us sorely want back. □

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

BOOKS

GALILEO'S REVENGE: JUNK SCIENCE IN THE COURTROOM

by Peter W. Huber

Basic Books, 10 East 53rd Street, New York, NY 10022
1991 • 304 pages • $22.95 cloth

Reviewed by Doug Bandow

Much has been written about the litigation explosion in recent years, including Peter Huber's *Liability: The Legal Revolution and Its Consequences*. But Huber, a Senior Fellow at the Manhattan Institute, uses his latest book, *Galileo's Revenge: Junk Science in the Courtroom*, to explore one particularly important facet of the perversion of modern tort law—what Huber calls "junk science," the use of dubious experts and flawed research to generate huge verdicts.

Junk science, Huber writes, "is the mirror image of real science, with much of the same form but none of the same substance"—the astrologer versus the astronomer. While mainstream scientists are appalled by the resulting "hodgepodge of biased data, spurious inference, and logical legerdemain" as well as "outright fraud," lawyers, he argues, have welcomed the opportunity for legal alchemy, turning "scientific dust into gold." And courts, which once strictly limited expert testimony, have increasingly treated the most idiosyncratic witnesses like respected authorities.

Examples of what Huber terms courtroom malpractice are legion. Decades ago came a string of lawsuits attributing cancer to bumps and falls. These cases died out, only to be replaced with suits blaming chemicals for causing cancer and other ills, cars for accelerating without reason, drugs for spawning a variety of ailments, and delivery procedures for inducing cerebral palsy. A Philadelphia psychic even won a million-dollar judgment as compensation for her alleged loss of powers due to a CAT scan. The judge tossed out that verdict, and defendants have won many other cases. But the social cost of junk science remains high: massive judgments, unending attorneys' fees, lost product sales, drugs withdrawn from the market, and attention diverted from the real causes of most accidents and ailments.

Huber blames the growth of junk science on the shift in the 1960s and 1970s away from traditional common law rules in an attempt to "rationalize" tort law to better control the causes of accidents: "epidemiology, engineering, accidentology, or some other branch of conventional science would trace out for the jurist all the antecedent causes of a calamity," however remote, allowing the courts to penalize the person or institution considered best able to prevent future harms. Unfortunately, Huber writes, this practice was "a prescription for bringing innumerable new scientific controversies into court," along with ever more exotic experts and theories.

For instance, aided and abetted by the *60 Minutes* TV show, lawyers and their hired "experts" unleashed a slew of lawsuits against Audi for the alleged "sudden acceleration" of its model 5000. The litigants eventually extended to Audi owners complaining that the adverse publicity had reduced the value of their cars. Alas, as Huber shows, no plaintiff ever proved a single instance of sudden acceleration. Indeed, in numerous cases there was clear evidence that the driver had mistakenly stepped on the gas pedal instead of the brake; and extensive investigation by the National Highway Traffic Safety Administration blamed driver error, not manufacturer defect, for "sudden acceleration." Nevertheless, while Audi didn't lose every case, it lost two-thirds of its U.S. sales—and thousands of consumers switched to cars with higher fatality rates.

Another continuing series of junk science cases involves charges against obstetricians alleging that improper delivery causes cerebral palsy in babies. Different lawyers choose varying, and often conflicting, theories, but enough juries accept the claims to make these cases "one of the most spectacularly lucrative enterprises known to lawyers, quite possibly the single largest revenue raiser in all of medical malpractice," writes Huber. Although the best evidence seems to be that cerebral palsy results from factors during pregnancy rather than delivery, this litigation sweepstakes has yet to end.

Perhaps worst of all are the "chemical AIDS" cases, where doctors and scientists of dubious reputations have convinced juries to assess massive

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

damages against firms for creating minuscule risks, risks far below those from lifestyle choices made by every individual every day. The courts haven't been alone in their credulity: the federal government now admits that it may have greatly overestimated the dangers of dioxin, which has resulted in multimillion dollar legal judgments and settlements, when it evacuated the entire town of Times Beach, Missouri.

Huber ably details how the so-called clinical ecologists have committed scientific fraud in the courtroom, ascribing virtually every human ill to one chemical or another. Yet the facts are really not in dispute. Noted a 1986 assessment by the American Academy of Allergy and Immunology, "the idea that the environment is responsible for a multitude of human health problems is most appealing," but there is no "satisfactory evidence to support" the claim. The advocates carry on, however, advancing religion rather than science. Observes Huber: "What most clearly characterizes the clinical ecologists today is their activist faith."

The only answer to such zealotry is to return the courts to the pursuit of truth—"the rule of fact," as Huber puts it. And this requires substituting good science for "the layman's science of gut feel, the lawyer's science of hunch and impression, science that ignores dosage and timing, science without numbers, science without rigor, science without the details." Huber emphasizes that courts should be skeptical not of new research, but of work carried on outside of the mainstream scientific community. The issue, he explains, is "the methods behind a scientific report, not its finely detailed conclusions." Raising the standards for professional witnesses would be eminently reasonable. As Huber observes: "If the law is capable of holding defendants to professional standards, it is capable of holding witnesses to the same."

Obviously, even the "good science" that Huber lauds doesn't offer certainty in every case. But it is far better—"vastly more accurate, reliable, stable, coherent, and evenhanded than the alternatives," as Huber puts it. Moreover, the risk of mistake is far less than that which results from the "let-it-all-in" attitude that prevails in the courtroom today.

Ultimately, Huber argues, the issue comes down to the purpose of the courts. Russ Herman, president of the Association of Trial Lawyers of America, opines that the "courts are an institution established for the resolution of disputes, not arbiters of scientific truth." Yet the purpose of resolving disputes should be to accurately ascertain the facts *before* fashioning a judgment. Holding careful doctors liable for a baby's cerebral palsy, or a chemical firm liable for the harmless use of its product, may both resolve a dispute and enrich a litigant. But doing so doesn't provide justice for the defendant or make society better off.

Indeed, Huber specifically rebuts the argument that we should accept questionable scientific claims in order to err on the side of safety. Not only is there no evidence that litigation has helped control accidents in anything but the most obvious cases, but junk science itself may be dangerous. For example, in many instances it makes no medical sense to pull asbestos out of old buildings.

Peter Huber has written an important book. Distorted liability rules have helped create an insurance crisis, drive doctors out of business, stunt commercial innovation, and redistribute wealth in perverse ways. Tort law run amok has also unleashed modern-day witch hunts, with auto companies, chemical producers, doctors, and drug makers among the primary victims. Many courts, writes Huber, essentially "sit back, let everything in, and invite random groups of twelve stout citizens to vote as they please." The results of such a system are not pretty; the time for reform is now. □

Doug Bandow is a Senior Fellow at the Cato Institute and a graduate of Stanford Law School. He is a member of the California and D.C. bars.

REFLECTIONS OF AN AFFIRMATIVE ACTION BABY

by Stephen L. Carter

Basic Books, 10 East 53rd Street, New York, NY 10022
1991 • 286 pages • $22.95 cloth

Reviewed by Jim Christie

In Clarence Thomas, most Americans discovered a political and philosophical oddity, a "black conservative" with reservations about affirmative action. Stephen Carter, a constitutional law expert at Yale Law School, describes how such

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

labeling limits honest and constructive political discourse.

Carter, who tells of his personal experiences —both beneficial and negative—with affirmative action, argues that affirmative action has become a trap for black professionals. For accepting affirmative action's benefits, such as privileged entree into universities, professional schools, and the business world, aspiring black professionals—primarily those who go into politics, law, and academia—must then be prepared to accept not only its stigma, but also an obligation never to break from its ranks of supporters.

Those who dissent, writes Carter, face the fate of Clarence Thomas—a dreaded association with conservatism, which in the eyes of many blacks (primarily from the generation that still carries the torch of the civil rights movement and among emerging campus diversity militants) is tantamount to racial treason.

Carter, a liberal embarked on dissent, confronts his more vocal colleagues forcefully: "Preferential treatment comes in two kinds, the kind we like and kind we hate. Both kinds have roots in the idea that race is a useful proxy for other information: in the early days of affirmative action, a proxy for disadvantage; today, a proxy for the ability to tell the story of the oppressed." This outlook, says Carter, has given birth to a ruthless dogma among liberal black elites that brooks no criticism, particularly from other blacks.

Its vitriolic nature can be seen in the personal denunciations of "black dissenters," as Carter describes them, such as Thomas Sowell, Shelby Steele, and Clarence Thomas, whose Heritage Foundation speech is often quoted by Carter as a converse example of conservatives' expectations of black dissenters. And while Carter defends black dissenters espousing conservative beliefs and policies, he pleads not to be misinterpreted as a "black neo-conservative" as happened to *Content of Our Character* author Steele, a Jesse Jackson backer in 1988.

That Carter displays a certain sympathy for the dissenters may come from his never having a personal need for affirmative action. The son of a law professor and a lawyer, raised in upper-middle class neighborhoods in the 1960s, and a National Merit Scholarship runner-up, he made it to Stanford, and later Yale Law School, on his academic record. He credits affirmative action with helping him to a certain extent, but cautions that it is no substitute for personal drive—an argument that runs throughout the book.

Despite growing up in white suburbia and being matriculated in predominantly white, well-meaning liberal institutions of higher education, Carter wasn't free from racism or race-based assumptions. In fact, at times in the book it seems he bristles more against condescending attitudes from whites than blatant racism.

Carter recounts the hurt of being the subject of epithets in high school and more vicious ones in Palo Alto and Atlanta. But he more poignantly recounts the sting of being told an "error" had been made on his rejection from Harvard Law School, that the admissions committee didn't realize he was black: "I was told by one official that the school had initially rejected me because 'we assumed from your record that you were white.' . . . Suddenly coy, he went on to say that the school had obtained 'additional information that should have been counted in your favor'—that is, Harvard had discovered the color of my skin."

And if there is one thing Carter hates, it is the supposition affirmative action has created among blacks that they can't be the best in their field, but they can be the "best black."

The underlying theme of this book is the perception of intellectual and political limitations both black and white establishments attach to blacks because of affirmative action—which, Carter senses, is on its way out politically, certainly among many whites who have lost faith in the policy, and, he believes, among many blacks who now see it as a social burden.

And it is the deep divisions between the black establishment and dissenters that now overshadow what, in Carter's opinion, should be the central issue for black intellectuals—the future, and the shifting of affirmative action to blacks who need it most, not blacks raised in the middle class or bound for professional careers: "When black people criticize [affirmative action], the response is bewilderment, pain, and, in the end, open hostility. In the difficult years ahead, we cannot afford the luxury of letting our squabble over preferences, which help mostly those who can best survive without them, interfere with the needed dialogue on what to do next." □

Jim Christie, a graduate of the National Journalism Center, is a staff writer for California Republic.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

ADAM SMITH AND MODERN ECONOMICS: FROM MARKET BEHAVIOR TO PUBLIC CHOICE

by Edwin G. West

Gower Publishing Company, Old Post Road, Brookfield, VT 05036 ◦ 1990 ◦ 256 pages • $47.95 cloth

Reviewed by Nicholas Elliott

Despite being widely described as the "father of modern economics," Adam Smith is given cursory mention by most modern economists and is only regarded as important for his 18th-century insights.

Readers will put down West's book with a comprehension of Smith as a timeless economist whose analysis yields fresh insights into modern economics.

This work, published 200 years after Smith's death, is both a reinterpretation of Smith and a review of how later writers have extended his ideas. But the most exciting aspect is the reinforcement lent to Smith's status as a champion of free markets. Some latter-day economists have depicted Smith as a moderate interventionist, falsely claimed by libertarians. West looks at each area in which Smith supposedly favored government action and confirms him as a believer in the minimal state.

West contends that where Smith refers to projects that "could never repay the expense to any individual or small number of individuals," he did not have in mind the modern concept of a "public good" (a good the provision of which is indivisible or from which recipients cannot be excluded). Rather, he was suggesting that a *large* number of individuals *could* receive an adequate return, if enabled to do so through liberalized capital markets.

The historical context is important, as "public" companies—limited liability firms that could raise capital through equity issue—were often permitted to exist by royal charter. Smith wasn't calling for government provision when he referred to public enterprises, West says, but for charters to allow companies to undertake certain projects.

Smith advocated charters for insurance, banking, canals, and water supply. For most infrastructure he favored local financing, either through local taxes or through tolls, rather than central government funding. He accepted some government financing of education, but believed it should be mixed with local funds, and he argued for teachers to be paid by the tutored.

In a fascinating chapter on the history of economic thought, West places Smith in the laissez-faire school of economics along with Malthus and Ricardo, and contrasts them with John Stuart Mill and Nassau Senior. Whereas Smith presumed that the individual knows his own mind best, Mill and Senior conceded large areas of society to government and saw little reason to set limits.

West maintains that those more dirigiste economists didn't appreciate the importance of Smith's analysis of interest groups and how they distort good government—the analysis recently developed into public choice theory.

The modern school of public choice, exemplified by economists James Buchanan and Gordon Tullock, applies economic methods to political behavior. West devotes a chapter to Smith's public choice analysis, but this is a theme that runs throughout the book.

Economists examine the costs of monopolies in terms of their upward leverage on prices. Smith recognized these costs but saw others, identifiable through his public choice analysis. He pointed out the costs of lobbying, both to the monopoly seeking to retain its privilege and to victims seeking its removal. He also considered the costs engendered by the growth of bureaucracy in monopolistic firms, and the general harm to the body politic caused by allowing people to seek special favors from government. These additional costs are not appreciated in modern economics because of its narrow diagrammatic focus.

Smith's failure to spell out a theory of comparative advantage in trade has drawn criticism from a number of economists, but West defends his more dynamic approach. As Smith saw the division of labor limited by the extent of the market, so trade provided a widening of the market and was a spur to development.

George Stigler has criticized what he believes is Smith's suspension of his own public choice analysis in his policy recommendations. Stigler cites Smith's canons of taxation which suggest convenience, certainty, minimal exaction, and ability to pay as the basis for a tax system. Smith is naive, says Stigler, to expect politicians to be interested in anything other than maintaining votes and raising revenue.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

Once again, West provides a novel explanation of Smith's position. First, he says, Smith was thinking at the pre-constitutional level rather than referring to the hurly-burly of politics. Second, Smith was indeed appealing to self-interest—that of the sovereign to whom his remarks were addressed. It was in the sovereign's interest to prevent abuse of the constitution, says West. Smith's "clients were the custodians, the draftsmen, and the innovators of constitution, not a passing government that is intimidated by the mob," West contends.

One of West's aims is to defend Smith against critics who have argued that his work contains little that can be tested empirically. Some Austrian economists would quarrel with the assumption that theories must stand or fall on quantitative evidence. Had Smith written today, his work might have been cluttered with statistical analysis, but surely his qualitative prose is more accessible.

West includes a chapter on religion to show how Smith presented his ideas in testable form, but also perhaps to remind us that Smith's work ranged wider than economics. Smith looked on religions as moral codes, evolved to bind people to their sense of duty and respect for rules. By the same token, said Smith, joining a church is a way of establishing a reputation for newcomers. Religions provide "valuable, reliable information concerning the level of risk attached to dealings with particular individuals," he suggested.

What could have been a narrow and arcane book opens up Smith and contains some sharp reflections on the questions addressed by Smith and on his place in the history of economic thought. West decides that the reason a subsequent generation of economists strayed from Smith's individualism "may be that their understanding of it was too superficial." He could have said much the same of many modern economists, but the departure is something that West's book will help to remedy. □

Nicholas Elliott is a financial journalist in London.

ECONOMIC FREEDOM AND INTERVENTIONISM

An Anthology of Articles and Essays by Ludwig von Mises

Selected and Edited by Bettina Bien Greaves

Forty-seven of the pre-eminent Austrian economist's shorter pieces, all written after Mises came to the U.S. in 1940, gathered from many sources into a well-organized and annotated collection. Topics include:

- the importance of private property
- savings and investment
- Keynesianism
- the proper role of government
- interventionism
- the dangers of inflation
- Marxism
- bureaucratic management

All around the world, long-time advocates of economic planning are being forced by circumstances to admit that their policies haven't worked. This book sets forth, with inescapable logic and clarity, the reasons why. It also shows how capitalism, with its democracy of consumers, helps to reduce conflicts and point the way to peaceful human cooperation.

Plus: Mises' original evaluations of F. A. Hayek's *The Constitution of Liberty,* Murray Rothbard's *Man, Economy and State,* Israel Kirzner's *The Economic Point of View,* and Hans F. Sennholz's *How Can Europe Survive?*

263 pages, indexed

Cloth: $29.95
Paper: $14.95

ORDER TODAY
The Foundation for Economic Education
30 South Broadway
Irvington-on-Hudson, NY 10533

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

Join us in the pursuit of an ideal.

The ideal of freedom is to let anyone do anything he pleases, as long as his behavior is peaceful, with government empowered to keep the peace—and nothing more. An ideal objective, true, but one that must be pursued if we would halt the continuing descent of our society from bad to worse. Nothing short of this will suffice. And unless we fully understand the ideal—and what makes for its attainment—we'll tend to settle for powerless, futile little pushes and shoves that yield no more than a false sense of something done.

—Leonard E. Read

Where have you been? If you've just discovered THE FREEMAN and have found some helpful ideas, you may want to see our studies regularly. If so, just use the form below to reserve your place on our mailing list. (Any individual in the United States is added at his request. For foreign delivery, extra mailing costs require a charge of $20.00 a year.)

Where are you now? If you're already on the mailing list, but have a new address, please let us know of the change to minimize any delays in delivery.

.....

Sorry, this is not a mailing card: please enclose in a stamped envelope.

The Foundation for Economic Education
Irvington-on-Hudson, New York 10533
Telephone: (914) 591-7230

THE FREEMAN
IDEAS ON LIBERTY

☐ Please add my name to receive THE FREEMAN, a monthly study journal of free market, private property, limited government ideas and ideals; and the newsletter, NOTES FROM FEE.

☐ Enclosed is a donation of $_____ to help in The Foundation's work.

☐ Please change my address, as follows.

Name (Please print) _____

Street _____

City _____ State _____

Zip Code _____

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

"Logical consequences are the scarecrows of fools and the beacons of wise men."

—THOMAS HENRY HUXLEY

(1825-1895)

THE FOUNDATION FOR
ECONOMIC EDUCATION, INC.
30 South Broadway
Irvington-on-Hudson, NY 10533

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED